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CHAPTER 15

STATEWIDE WATER QUALITY MANAGEMENT PLANNING

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CHAPTER 15

STATEWIDE WATER QUALITY MANAGEMENT PLANNING

SUBCHAPTER 1. GENERAL PROVISIONS

7:15-1.1 Scope

(a) This chapter prescribes water quality management policies and procedures established pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.S.A. 13:1D-1 et seq. Specifically, this chapter prescribes policies and procedures concerning the following subjects:

1. The content of the continuing planning process ("CPP") and its relationship to this chapter and the Statewide Water Quality Management ("WQM") Plan;
2. The relationship between the Statewide, areawide, and county water quality management (WQM) plans and this chapter;
3. The role of the Department and designated planning agencies in WQM planning activities;
4. The review of projects and activities for consistency with WQM plans and this chapter, including the issuing of consistency determinations for specified kinds of projects;
5. The preparation, adoption, amendment, revision, and certification of WQM plans;
6. The adoption of other Department rules, wastewater facilities priority systems and project priority lists, sludge management plans, effluent limitations, wastewater management plans, 201 Facilities Plans, and other documents in WQM Plans;
7. Coordination of WQM planning with Coastal Zone, Hackensack Meadowlands, and Pinelands programs;
8. Mechanisms to resolve conflicts among State agencies, designated planning agencies, applicants, and other parties affected by this chapter;
9. Selected aspects of wastewater management, including treatment works deemed to be consistent with WQM plans and this chapter; WQM Plan amendment requirements for treatment works not identified in WQM plans; construction of individual subsurface sewage disposal systems and other small domestic treatment works in future sewer service areas; and eligibility for financial assistance.

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10. The identification of WQM plan amendments that require the adoption or amendment of wastewater management plans in areawide WQM plans;
11. The assignment of the duty to prepare and update wastewater management plans to certain sewerage agencies and municipalities, and the establishment of alternative assignments of such wastewater management plan responsibility; and
12. The required contents of wastewater management plans, and schedules and procedures for their submission, adoption, and updating.

7:15-1.2 Construction

This chapter shall be liberally construed to permit the Department to discharge its statutory functions, and to effectuate the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., N.J.S.A. 13:1D-9, the Statewide WQM Plan, and the areawide WQM plans.

7:15-1.3 Purpose

(a) The purpose of this chapter is to:

1. Implement the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.S.A. 13:1D-9;
2. Establish policies, procedures and standards which, wherever attainable, help to restore and maintain the chemical, physical and biological integrity of the waters of the State, including groundwaters, and the public trust therein, to protect public health, to safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial and other uses of water;
3. Prevent, control, and abate water pollution;
4. Conserve the natural resources of the State, promote environmental protection, and prevent the pollution of the environment of the State;
5. Encourage, direct, supervise and aid areawide WQM planning;
6. Integrate and unify the Statewide and areawide WQM planning processes, and provide for continuing WQM planning;
7. Ensure that projects and activities affecting water quality are developed and conducted in a manner consistent with this chapter and adopted WQM Plans;
8. Coordinate and integrate WQM plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities, programs and policies;

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9. Develop and implement water quality programs in concert with other social and economic objectives;
10. Provide opportunities for public participation in the WQM planning process;
11. Prepare, administer, and supervise Statewide, regional and local plans and programs concerning conservation and environmental protection, including plans and programs concerning sewerage facilities;
12. Encourage, direct and aid in coordinating State, regional and local plans and programs concerning conservation and environmental protection, including plans and programs concerning sewerage facilities, in accordance with a unified Statewide plan formulated, approved and supervised by the Department;
13. Supervise sanitary engineering facilities within the State; and
14. Encourage the development of comprehensive regional sewerage facilities that serve the needs of the regional community and that conform to the adopted areawide WQM plan applicable to that region.

7:15-1.4 Severability

If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect.

7:15-1.5 Definitions

The following words and terms as used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

“Actual flow” means the volume of sewage and other wastes that a DTW receives; actual flow shall be determined by the arithmetic average of the metered daily volumes of waste received at a DTW for the preceding period of three consecutive calendar months. Where peak flows have been determined by the Department to be seasonal in nature, the seasonal peak flow period shall be used in determining actual flow.

“Adoption” means the adoption by the Department of Statewide WQM Plans or amendments or revisions thereof and the adoption by the Governor or his designee of areawide plans or amendments or revisions thereof pursuant to this chapter.

“Amendments” means changes to the Statewide and areawide WQM plans that may be proposed and adopted under N.J.A.C. 7:15-3.4.

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“Areawide plan” or “areawide WQM plan” means the areawide WQM plan authorized in Section 5 of the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), and Sections 208 and 303 of the Clean Water Act, 33 U.S.C. § 1251 et seq.

“Authority” means a sewerage authority as defined in N.J.S.A. 40:14A-3(5), or a municipal authority as defined in N.J.S.A. 40:14B-3(5).

“Best Management Practices (BMPs)” means the methods, measures, or practices to prevent or reduce the amount of pollution from point or non-point sources, including structural and nonstructural controls, and operation and maintenance procedures.

“BRC-regulated sewer or water utilities” means sewer utilities or water utilities regulated by the Board of Regulatory Commissioners under N.J.S.A. 48:1-1 et seq. and N.J.A.C. 14:9.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

“Consistency determination” means the written statement by the Department under N.J.A.C. 7:15-3.2, as to whether a project or activity listed in N.J.A.C. 7:15-3.1(b) is consistent with, inconsistent with, or not addressed by, adopted WQM Plans and this chapter.

“Continuing planning process” or “CPP” means the Statewide planning process conducted by the Department of Environmental Protection as authorized in Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7).

“County utilities authority” means any public body created by a county governing body pursuant to N.J.S.A. 40:14B-4a, or any sewerage authority or county sewer authority reorganized as a county utilities authority pursuant to N.J.S.A. 40:14B-6b.

“County water quality management plan” or “County WQM plan” means a county plan prepared by a county planning board pursuant to Section 5 of the Water Quality Planning Act (N.J.S.A. 58:11A-5).

“CP1 application” means the formal application for a permit from the Department.

“Department” means the New Jersey Department of Environmental Protection.

“Designated area” means an area designated by the Governor as an areawide WQM planning area pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Designated management agency” means an agency designated in an adopted WQM plan to implement one or more of the policies, objectives, and recommendations of that plan.

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“Designated planning agency” means an agency designated by the Governor to conduct areawide WQM planning pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, landfill, excavation, roads, sewers and other infrastructure and any use or change in the use of any building or other structure, or land or extension of use of land. Phased development shall be considered as a single project.

“District” means either or both of the following, depending on the context: the district of a sewerage authority as defined in N.J.S.A. 40:14A-3(6), or the district of a municipal authority as defined in N.J.S.A. 40:14B-3(6). For purposes of N.J.A.C. 7:15-5.14(a)1, 5.16(a)2i and 5.18(i), “district” shall also mean the Passaic Valley Sewerage District.

“Domestic treatment works” or “DTW” means a publicly or privately owned treatment works and shall include a treatment works processing domestic wastes together with any ground water, surface water, storm water or industrial process wastewater that may be present.

“Drawings and/or plans” means those drawings, site plans and/or blueprints prepared by a professional engineer or professional planner, as appropriate, which portray the development specifications of the site project or activity.

“DTW” means “domestic treatment works”.

“Emergency activities” means activities that are necessary to be performed in response to sudden or unexpected occurrences or conditions, in order to prevent loss of life, personal injury, severe property damage, or severe environmental damage.

“Environmentally sensitive areas” means those areas identified in a Statewide or areawide WQM plan as land areas possessing characteristics or features which are important to the maintenance or improvement of water quality, or to the conservation of the natural resources of the State.

“Federal Act” means the Federal Water Pollution Control Act, commonly known as the Clean Water Act, 33 U.S.C. §§ 1251 et seq., including all subsequent supplements and amendments.

“Freshwater wetlands” means freshwater wetland as defined at N.J.S.A. 13:9B-3 and N.J.A.C. 7:7A-1.

“Governmental entity” means a Federal, state, county or municipal government or school district whose jurisdiction is partially or entirely within New Jersey.

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“Industrial/commercial” means any project or activity engaged in manufacturing, production or sales of services or products.

“Industrial treatment works” means an industrial treatment works as defined at N.J.A.C. 7:14A.

“Interim connection”, “interim construction” or “interim expansion” means interim connection, construction or expansion of wastewater facilities as described in N.J.A.C. 7:15-4.2(a)4.

“Joint meeting” means a joint meeting as defined in N.J.S.A. 40:63-69.

“Lake, pond or reservoir” means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control, wastewater management and storm water management basins. Lakes, ponds and reservoirs are characterized by a long-term or permanent downgradient restriction of surface water flow from the impoundment and areas of quiescent water within the body of the impoundment. Lakes, ponds and reservoirs are frequently characterized by greater water depths within the impoundment than either the upgradient or downgradient surface water flow and by shallow water lateral edges containing emergent or submerged plant species. For regulatory purposes, the upgradient boundary of a lake, pond or reservoir shall be considered to be the point at which areas of greater depth and relatively quiescent water can be differentiated from the upgradient surface water input into the impoundment under average flow conditions.

“Load allocation” means the portion of a receiving water's total maximum daily load for a specific pollutant that is allocated to existing or future nonpoint sources of pollution.

“Multi-county joint meeting” means any joint meeting whose membership includes municipalities in two or more counties.

“Municipal authority” means a municipal authority as defined in the Municipal and County Utilities Authorities Law at N.J.S.A. 40:14B-3(5), and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county.

“Municipal government” means a city, town, borough, village, township or other municipal government created by State law, which has an elected governing body, a chief executive, and municipal public officials including a municipal clerk, tax assessor, and tax collector.

“NJPDES” means the New Jersey Pollutant Discharge Elimination System established in N.J.A.C. 7:14A.

“NJPDES discharge permit” means a permit issued by the Department under N.J.A.C. 7:14A for a discharge to surface water or a discharge to ground water.

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“Non-designated area” means an area not designated by the Governor as an areawide WQM planning area pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Non-point source” means a contributing factor to water pollution that cannot be traced to a specific discernible confined and discrete conveyance.

“ORP” means the Office of Regulatory Policy, or its successor, in the Department of Environmental Protection.

“Passaic Valley Sewerage Commissioners” means the body described by that name under N.J.S.A. 58:14-2.

“Passaic Valley Sewerage District” means the sewerage district now or hereafter described by that name under N.J.S.A. 58:14-1 et seq.

“Point source” means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

“Process waste water” means process waste water as defined at N.J.A.C. 7:14A.

“Public advisory committee” or “PAC” means a representative committee of interests formed for the purpose of advising the Department on policy and other relevant issues in the development and implementation of a watershed management area plan or TMDL.

“Regional authority” means any sewerage authority created by the governing bodies of two or more municipalities pursuant to N.J.S.A. 40:14A-4(c), or any municipal authority created by the governing bodies of two or more municipalities pursuant to N.J.S.A. 40:14B-5.

“Regional wastewater management plan area” means a wastewater management plan area that includes land in two or more municipalities.

“Revisions” means changes to WQM plans under N.J.A.C. 7:15-3.5 that are necessary for one or more of the purposes set forth at N.J.A.C. 7:15-3.5(b).

“Sewerage agency” means the Passaic Valley Sewerage Commissioners, a sewerage authority, a municipal authority or a joint meeting.

“Sewerage authority” means a sewerage authority created pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq.

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“Significant modification” means a significant alteration, expansion or other change that may reasonably be expected to affect the quantity of flow treated or the quality of the effluent discharged to the waters of the State or to a publicly owned treatment works.

“Site specific allocation” means a wasteload allocation for a specific pollutant to an existing or future point source based on site specific considerations rather than from a total maximum daily load.

“Site-specific pollution control plan” means a plan that details necessary structures or measures designed to control one or more specified pollutants or sources of pollution from a site.

“State” means the State of New Jersey.

“State Water Quality Inventory Report” means the biennial report prepared by the Department, pursuant to Section 305 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq., which inventories and assesses the quality of surface and ground waters of the State.

“Statewide Water Quality Management Plan” or “Statewide WQM Plan” (formerly known as the Statewide Water Quality Management Program Plan) means the plan that, together with this chapter, directs and coordinates water quality planning and implementation activities for the entire State, and contains the written provisions of the CPP pursuant to Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7).

“Stormwater point source” means a point source from which stormwater is or may be discharged, but does not include a point source from which stormwater mixed with domestic wastewater, non-contact cooling water, or process wastewater other than stormwater is or may be discharged.

“Subwatershed” means a portion of an identified watershed containing all the lands from which water, sediments and dissolved materials drain to a particular receiving surface water body or to a particular point along a receiving surface water body.

“Surface water quality standards” means the rules at N.J.A.C. 7:9B which set forth, for the surface waters of the State, designated uses, use classifications and water quality criteria, and the Department's policies concerning these uses, classifications and criteria.

“TMDL project work plan” means a detailed plan for the development of a basic TMDL or a complex TMDL in full conformance with the requirements of N.J.A.C. 7:15-7.

“Total maximum daily load” or “TMDL” means a total maximum daily load formally established pursuant to Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7) and Section 303(d) of the Clean Water Act, 33 U.S.C. §§ 1251 et seq. A TMDL is the sum of individual wasteload allocations for point sources, load allocations for nonpoint sources of pollution, other sources such as tributaries or adjacent streams, and allocations to a reserve or margin of safety for an individual pollutant.

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“Treatment works” means treatment works as defined at N.J.A.C. 7:14A.

“Treatment works approval” means an approval issued pursuant to N.J.S.A. 58:10A-6b and N.J.A.C. 7:14A.

“201 Facilities Plans” means the plans for wastewater facilities prepared pursuant to Section 201 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

“201 Facilities Planning agencies” means those agencies which are responsible for conducting 201 facilities planning, pursuant to Section 201 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

“209 Basin Plans” means water resources plans adopted pursuant to Section 209 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

“Upgrade” means a modification of a domestic or industrial treatment works to improve the quality of effluent discharged to surface water or ground water.

“USEPA” means the United States Environmental Protection Agency.

“USGS quadrangle map” means any of the set of topographic maps published by the United States Geological Survey at 1:24,000 scale and known as “quadrangles” or “quads”.

“Wasteload allocation” means the portion of a total maximum daily load that is allocated to a point source.

“Wastewater management agency” means a governmental entity or sewerage agency designated in an areawide WQM Plan to plan, construct, or operate domestic treatment works.

“Wastewater management plan” or “WMP” means a written and graphic description of existing and future wastewater-related jurisdictions, wastewater service areas, and selected environmental features and treatment works.

“Wastewater management plan area” or “WMP area” means the geographic area for which a governmental unit or other person has "wastewater management plan responsibility" as defined in N.J.A.C. 7:15-5.3(b).

“Wastewater management planning agency” means a governmental unit or other person that has "wastewater management plan responsibility" as defined in N.J.A.C. 7:15-5.3(b).

“Water quality based effluent limitations” means water quality based effluent limitations established pursuant to the Department's Surface Water Quality Standards (N.J.A.C. 7:9-4), including, but not limited to, wasteload allocations.

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“Water quality limited segment” means any segment of a waterbody that does not or is not expected to meet surface water quality standards, identified in accordance with N.J.A.C. 7:15-6.2. Each WQLS shall be entirely contained within a watershed, and may be configured using the USEPA stream segments data base or the US Geological Survey 14-digit Hydrologic Unit Code mapping of New Jersey surface waterbodies (USGS Water Resources Investigation Report 95-4134).

“Water quality management plans” or “WQM plans” means the plans prepared pursuant to Sections 208 and 303 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., including the Statewide, areawide, and county WQM Plans.

“Watershed” means a geographic area containing all the lands from which water, sediments and dissolved materials drain to a particular receiving surface water body or to a particular point along a receiving surface water body.

“Watershed management activity” means activities or projects undertaken by a watershed management group to improve the condition or prevent further degradation of a watershed, and may include, but need not be limited to, public meetings to discuss and exchange information on watershed issues, the establishment and operation of a stakeholders advisory group or groups or watershed associations dedicated to preserving and protecting a watershed, the monitoring, water quality modeling or assessment of the condition of a watershed, the development of policy goals to reduce the amount of pollutants discharged into a watershed, the development of projects designed to enhance or restore a watershed, the development, in consultation with the department, of a watershed management strategy, or the reassessment of a watershed to determine whether the policy goals or the objectives of a watershed management area plan or watershed management strategy have been attained.

“Watershed Management Area” or “WMA” means a regional area established by the Department that is comprised of multiple watersheds and subwatersheds. WMA delineations are available from the Department and on the DWM web page.

“Watershed Management Area Plan” or “WMA plan” means the plan developed and adopted by the Department, in consultation with the PAC, to protect and improve New Jersey's water and water-related resources by identifying actions to maintain, restore and enhance existing water quality, water quantity and ecosystem health, wherever attainable, within a watershed management area.

“Watershed management group” means a group recognized by the Department pursuant to N.J.A.C. 7:15-9.3(b) as the entity representing various interests within one or more watersheds or subwatersheds located in a watershed management area and whose purpose is to improve the condition or prevent further degradation of a watershed or watersheds.

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“Watershed management strategy” means a plan developed by a WMG, in consultation with the PAC and the Department, to improve the condition of one or more watersheds or reassess a watershed to determine whether the policy goals or the objectives of the watershed management area plan or watershed management strategy have been attained.

“WMP” means wastewater management plan.

“Work programs and plans” means those documents that detail the specific work activities proposed as part of a water quality management program.

“WQM plan” means water quality management plan.

SUBCHAPTER 2. PLANNING REQUIREMENTS

7:15-2.1 Continuing planning process (CPP)

(a) The Department shall conduct a continuing planning process (CPP) whose written provisions shall be contained, directly or by reference, in the Statewide WQM Plan and this chapter. In conducting the CPP the Department shall:

1. Integrate and unify the Statewide and areawide water quality management planning processes;
2. Encourage, direct, supervise and aid areawide water quality management planning;
3. Coordinate and integrate WQM plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities, programs and policies;
4. Identify aspects of the CPP that have been delegated to other State, Federal, interstate, or local agencies;
5. Provide opportunities for meaningful public participation in the water quality management planning process;
6. Conduct a Statewide assessment of water quality. (The State Water Quality Inventory Report shall be the principal water quality assessment component of the Statewide WQM Plan.);
7. Establish water quality goals and water quality standards for the waters of the State; and
8. Develop a Statewide implementation strategy to achieve the water quality standards and objectives and meet the requirements of Section 303(e) of the Clean Water Act (33 U.S.C. §§ 1251 et seq.), which shall include, but not be limited to:

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- i. The determination of effluent limitations and schedules of compliance at least as stringent as those required by the Clean Water Act (33 U.S.C. §§ 1251 et seq.);
- ii. The identification of water quality limited segments;
- iii. The determination of total maximum daily loads, wasteload allocations, and load allocations for pollutants;
- iv. The incorporation of areawide and county WQM plans, applicable 209 Basin Plans, 201 Facilities Plans, and wastewater management plans;
- v. The amendment and revision of WQM plans, including schedules for such amendment and revision;
- vi. An inventory and ranking of needs, in order of priority, for the construction of wastewater facilities;
- vii. The determination of priorities for the issuance of discharge permits;
- viii. Methods for controlling all residual wastes from any water treatment processing; and
- ix. Adequate authority for intergovernmental cooperation in water quality management activities.

(b) In order to accomplish one or more of the requirements of (a) above, the CPP may also include or otherwise address, but not be limited to, one or more of the following:

1. Identification of existing or potential surface or ground water pollution problems, caused by point or nonpoint sources;
2. Evaluation of programs for water pollution control based upon factors that may include, but not be limited to, technical feasibility; cost- effectiveness; public acceptability; economic, social, or environmental impact; or legal, institutional, managerial or financial capability;
3. Technical measures, regulatory programs, or non-regulatory programs for point or nonpoint source water pollution control, protecting water resources, protecting environmentally sensitive areas, or other water quality related issues;
4. Designation of management agencies to implement one or more provisions of WQM plans; and
5. Other measures necessary to implement WQM plans.

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7:15-2.2 Relationship between the Statewide, areawide and county Water Quality Management Plans

(a) The Statewide WQM Plan and this chapter contain the written provisions of the CPP. The Statewide WQM Plan and this chapter direct and coordinate water quality management planning and implementation activities for the entire State and serve as a guide for areawide planning. The Statewide Water Quality Management Plan adopted by the Commissioner on December 5, 1985 and all subsequent amendments and revisions thereto are hereby incorporated by reference into this chapter. This chapter is included within the Statewide WQM Plan.

NOTE: The Statewide Water Quality Management Program Plan may be inspected at the Office of Regulatory Policy, Department of Environmental Protection, 401 East State Street, Trenton, New Jersey, or the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey.

(b) The areawide WQM Plan is the basis by which the Department and the designated planning agencies conduct selected water quality management planning activities for a particular "area" or section of the State which has either designated or non-designated area status.

(c) If any elements of any areawide WQM plan conflict with any component of the Statewide WQM Plan identified under N.J.A.C. 7:15-3.1(e) or with this chapter, such elements shall be of no legal effect and shall be superseded by this chapter and the Statewide WQM Plan to the extent that such conflict exists.

(d) All WQM plans shall be consistent with State statutes and rules and to the extent they are not consistent shall have no legal force and effect.

(e) Every county planning board may conduct a county-wide water quality management planning process and prepare a county WQM plan.

1. County WQM plans shall not be in conflict with the Statewide WQM Plan, appropriate areawide WQM plans, or this chapter. If any elements of any county WQM plan conflict with the Statewide WQM Plan, appropriate areawide WQM plans, or this chapter, such elements shall be superseded by the Statewide WQM Plan, areawide WQM plans, or this chapter to the extent that such conflict exists.

2. Each county planning board that prepares or changes a county WQM plan shall transmit a copy of that plan or change to the ORP, and to any designated planning agency whose designated area includes part or all of the subject geographic area.

3. Consistency of projects and activities with county WQM plans shall be required under N.J.A.C. 7:15-3.1 or 3.2, only to the extent that county WQM plans or components thereof are adopted into areawide WQM plans pursuant to N.J.A.C. 7:15-3.4 or 3.5.

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7:15-2.3 Role of the Department

(a) The Department shall:

1. Conduct a CPP and prepare a Statewide WQM Plan;
2. Prepare areawide WQM plans for non-designated areas;
3. Revise and amend the Statewide WQM Plan as necessary;
4. Coordinate and direct the activities of designated planning agencies;
5. Review and approve areawide work programs;
6. To the maximum extent feasible, act as a resource for designated planning agencies and county planning boards, providing them with technical assistance, and information on best management practices and pollution control technologies;
7. Require the preparation and updating of wastewater management plans, and provide for their review and adoption into areawide WQM plans;
8. Establish and administer policies, procedures, standards, criteria, and rules for water quality and wastewater management issues;
9. Identify water quality limited segments;
10. Establish total maximum daily loads, wasteload allocations, load allocations, and water quality based effluent limitations;
11. Prepare a biennial State Water Quality Inventory Report, and other reports required from the State under the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;
12. Perform consistency determination reviews, and otherwise ensure that projects and activities affecting water quality do not conflict with WQM plans or this chapter;
13. Delegate aspects and responsibilities of the CPP to other State, Federal, interstate, county or local agencies, and also withdraw or transfer such delegations as necessary; and
14. Make recommendations to the Governor regarding designation of planning agencies and planning areas under N.J.S.A. 58:11A-4.

7:15-2.4 Role of designated planning agencies

(a) The designated planning agencies shall:

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1. Prepare, revise, and amend the areawide WQM plans for their designated areas;
 2. Fulfill all responsibilities assigned to them under this chapter, the Statewide WQM Plan, the areawide WQM plan, their charter, any grant agreement, approved work program, and any agreement with the State;
 3. Carry out other responsibilities as agreed with or assigned by the Department under N.J.A.C. 7:15-2.3; and
 4. Ensure that the areawide WQM plan shall not be in conflict with any component of this chapter or the Statewide WQM Plan and shall not otherwise conflict with State statutes or duly promulgated rules.
- (b) The Department and the designated planning agencies shall coordinate their work in shared river basins or sub-basins, and shall refer any conflicts concerning such coordination to the Commissioner for his mediation.
- (c) If a previously designated area becomes a non- designated area as a result of action by the Governor, the Department shall conduct areawide water quality management planning for that area.

SUBCHAPTER 3. PLAN ASSESSMENT, AMENDMENT AND ADOPTION

7:15-3.1 Water quality management plan consistency requirements

- (a) All projects and activities affecting water quality shall be developed and conducted in a manner that does not conflict with this chapter or adopted WQM plans. The Commissioner shall not undertake, nor shall he or she authorize through the issuance of a permit, any project or activity that conflicts with applicable sections of an adopted WQM plan or with this chapter. For purposes of N.J.A.C. 7:15-3.1 and 3.2, "permit" includes permits, approvals, certifications, and similar actions. The Department shall conduct the consistency determination review or other consistency review for a Department permit concurrently with the Department's review of the permit application. The Department shall not issue the permit if the Department finds the project or activity to be inconsistent with a WQM plan or this chapter.
- (b) The Department shall not grant permits for the following projects and activities before a formal consistency determination review under N.J.A.C. 7:15- 3.2 has been completed:
1. New surface water or ground water discharges, or existing surface or ground water discharges proposing significant modifications, that require individual NJPDES discharge permits under N.J.A.C. 7:14A and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;

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2. Treatment works that require treatment works approvals under N.J.A.C. 7:14A-12 and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;

3. Actions regulated by the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq.;

4. Actions that require Type "B" wetland permits under N.J.A.C. 7:7-2.2;

5. Construction of the following new solid waste facilities, other than hazardous waste facilities and minor expansions of solid waste facilities, regulated by N.J.A.C. 7:26:

i. New sanitary landfills other than vertical expansions;

ii. New solid waste composting or co- composting facilities over one acre, but excluding leaf composting facilities;

iii. New resource recovery facilities and new solid waste materials recovery facilities;
and

iv. New solid waste incinerators and thermal destruction facilities;

6. Sanitary landfill closures where leachate collection and control is required under N.J.A.C. 7:26;

7. Construction of new hazardous waste facilities regulated by N.J.A.C. 7:26;

8. Waterfront development activities regulated under N.J.S.A. 12:5-3, for residential developments of 25 units or greater, and for industrial, commercial, and mixed use (including residential) developments having wastewater flows of 20,000 gallons per day or more; extensions or modifications to existing projects when the cumulative total for the project is greater than 24 units, or greater than or equal to 20,000 gallons per day;

9. Construction of 50 or more realty improvements regulated under the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.; and

10. Adoption or amendment of environmental health ordinances to control water pollution under the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.;

(c) The following projects and activities do not require a formal consistency determination review under N.J.A.C. 7:15-3.2, but shall still not conflict with WQM plans:

1. Approved and non-approved water supply connections regulated by the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.;

2. Construction or repair of dams regulated by N.J.S.A. 58:4-2 et seq.;

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3. Well drilling regulated by N.J.S.A. 58:4A-14 et seq.;
4. Actions regulated by the Air Pollution Control Act (1954), N.J.S.A. 26:2C-9.2;
5. Renewals or modifications of existing permitted activities that do not propose significant modifications, as determined by the Department;
6. Actions that require Type "A" wetland permits under N.J.A.C. 7:7-2.2;
7. Stream encroachments regulated under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;
8. Waterfront development activities regulated under N.J.S.A. 12:5-3, other than those identified in (b)8 above;
9. Water lowering regulated under N.J.S.A. 23:5- 29 or N.J.S.A. 58:4-9;
10. Construction or operation of water systems regulated by the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.;
11. Diversion of surface or ground waters regulated by the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.;
12. Activities that require freshwater wetlands permits, open water fill permits, or transition area waivers under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.;
13. Discharges that require water quality certifications under N.J.S.A. 58:10A-5.b and Section 401 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;
14. Actions regulated by N.J.A.C. 7:26 other than actions identified in (b)5 and 6 above and actions pertaining to hazardous waste, including:
 - i. Collection and haulage of solid waste;
 - ii. Operation of solid waste facilities;
 - iii. Permit renewals for solid waste facilities not proposing major expansions;
 - iv. Vertical expansions of sanitary landfills;
 - v. Construction of new solid waste transfer stations;
 - vi. Construction of new solid waste composting and co-composting facilities under one acre;

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- vii. Construction of new leaf composting facilities;
- viii. Sanitary landfill closure where leachate collection and control is not required; and
- ix. Disruption of sanitary landfills, where such disruption does not require construction of new sanitary landfills or treatment and disposal of leachate;

15. Hazardous waste activities regulated by N.J.A.C. 7:26 but not identified in (b)7 above, including collection and haulage of hazardous waste, operation of hazardous waste facilities, and permit renewals for hazardous waste facilities not proposing major modifications; and

16. Any other activity regulated by the Department but not identified in (b) above or deemed to be consistent under N.J.A.C. 7:15-4.2.

(d) At the request of any person who intends to apply for a Department permit, the Department shall informally discuss with such person the consistency of such person's proposed project or activity with WQM plans and this chapter. Information provided by the Department in such discussions is for guidance only, and is not binding on the Department.

(e) Except as expressly provided in this chapter or in an areawide WQM plan, the only components of the Statewide WQM Plan that shall be used in performing consistency determination reviews and other consistency reviews are the following:

1. This chapter, exclusive of those portions of the Statewide WQM Plan incorporated by reference, but not codified in this chapter; and
2. Statewide Sludge Management Plans, District Sludge Management Plans, and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq.

(f) Interested parties may comment on the consistency of Department permits with WQM plans and this chapter through the appropriate draft or final permit public review and comment process. Such comments shall be taken into consideration prior to the issuance of a final permit.

(g) At the request of any applicant whose proposed project or activity has been found by the Department to be inconsistent with a WQM plan or this chapter, the Department may informally discuss with that applicant the possible actions which that applicant might take to attempt to resolve the conflict. Such actions may include revising the project or activity to conform with the WQM plan and this chapter, seeking an amendment to the WQM plan under N.J.A.C. 7:15-3.4, or appealing the Department's finding under N.J.A.C. 7:15- 3.9(g). The applicant may take such actions without regard to the existence or absence of a discussion or a request for a discussion under this subsection. Information provided by the Department in such discussions is for guidance only, and is

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not binding on the Department or the designated planning agencies. If the project or activity is in a designated area, the Department shall invite the designated planning agency to participate in the discussion.

7:15-3.2 Procedures for consistency determination reviews

(a) Requests for consistency determination review shall, where applicable, include but not be limited to the following information:

1. A narrative description of the project, including county and municipality, lot and block, type of development or activity, number of dwelling units, anticipated population, anticipated wastewater flow, availability and identification of existing treatment works, proposals for new treatment works (include proposed owner and operator of treatment works, and location of discharge);
2. A United States Geological Survey quadrangle map showing the approximate boundaries of the project site and discharge location; and
3. Drawings and/or plans which illustrate the description under (a)1 above.

(b) Based upon potential negative water quality impacts of the project, the Department may require the narrative description under (a)1 above to also include potential water quality impacts and a site-specific pollution control plan. In most cases, the Department intends that requirements for such inclusion shall be established through amendments to areawide WQM plans. Any areawide WQM plan that establishes such requirements shall specify the categories of projects that are subject to the requirements, the pollutants or sources of pollution that shall be addressed, and the geographic region in which the requirements apply, if that region is less than the entire designated area or non-designated area.

(c) The Department shall perform consistency determination reviews in accordance with the following procedures:

1. Upon receipt of a complete request for consistency determination review and a complete permit application, the Department shall review the appropriate WQM plan and this chapter to determine whether the project or activity is consistent with the written provisions of the plan and this chapter. This review shall include, but not be limited to, the following plan components where applicable:

- i. Population forecasts;
- ii. Wastewater flow projections;
- iii. Availability of DTW;
- iv. Identification of appropriate DTW;

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- v. Identification of appropriate wastewater service area;
 - vi. Identification of appropriate project management agency;
 - vii. Use of Best Management Practices for pollution control;
 - viii. Identification of areas suitable or unsuitable for development with consideration of environmentally sensitive areas; and
 - ix. Other water quality based policies, goals, objectives, or recommendations.
2. The Department shall complete this review within 90 days of receipt of a complete request for consistency determination review and a complete permit application. This time period may be extended for a one time only 30 day period by the mutual consent of the applicant and the Department.
3. Upon completion of the review, the Department shall, except as provided in (c)4 below, issue a consistency determination. This determination shall state that the project or activity is either consistent with, inconsistent with, or not addressed by, the WQM plan and this chapter.
- i. A project or activity shall be determined to be consistent if it is in accordance with the written provisions of the WQM plan and this chapter.
 - ii. If the WQM plans and this chapter do not contain provisions precluding a project or activity, then this shall be interpreted to mean that the project or activity is not addressed. A finding of "not addressed" is equivalent in effect to a finding of consistent.
 - iii. A finding of inconsistent means that the project or activity is in conflict with the written provisions of a WQM plan or this chapter.
4. If the Department finds that a project or activity is consistent or not addressed, then the Department may issue a statement of this finding to the applicant or may issue the permit without issuing a written consistency determination.
5. Except as provided in (c)6 below, all Department findings made for Department permits under (c)4 above shall be valid only for the permit application for which the consistency determination review was sought.
6. If a project or activity requires two or more Department permits, and if the Department makes a finding under (c)4 above for one of those permits, that finding shall be valid for the remaining Department permits unless:
- i. The project or activity has become inconsistent, because of an amendment made to the WQM plan or this chapter after the initial finding; or

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ii. The Department denies a permit in response to comments received under N.J.A.C. 7:15-3.1(f).

7. If the Department finds a project or activity to be inconsistent, then the Department shall notify the applicant in writing of the reasons for this finding. The applicant may request an informal discussion of the conflict under N.J.A.C. 7:15-3.1(g).

7:15-3.3 (Reserved)

7:15-3.4 Water quality management plan amendment procedures

(a) The Department and the designated planning agencies shall propose amendments to the Statewide and areawide WQM Plans whenever such amendments are necessary or desirable. Amendments may be proposed for various reasons, such as to implement or comply with applicable State or Federal law; respond to new circumstances; improve the economic, social, or environmental impact of WQM plans; or resolve issues disclosed through the consistency review procedure.

(b) Procedures for amendment of the Statewide WQM Plan are as follows:

1. Water quality related provisions in present and future rules adopted by the Department shall be considered to be part of the Statewide WQM Plan. Such provisions may not be adopted, amended, or repealed through the WQM plan amendment process under (b)6 below.

2. Priority systems, intended use plans and project priority lists for wastewater facilities that are developed by the Department and accepted by the United States Environmental Protection Agency (USEPA) pursuant to USEPA regulations, or that otherwise are developed by the Department under N.J.A.C. 7:22, shall be considered to be part of the Statewide WQM Plan. Such priority systems and project priority lists shall be adopted or revised in accordance with USEPA regulations and N.J.A.C. 7:22, as appropriate, and shall not be adopted or revised through the WQM plan amendment process under (b)6 below.

3. Statewide Sludge Management Plans, District Sludge Management Plans and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq. shall be considered to be part of the Statewide WQM Plan. Such plans and rules shall be promulgated, revised, updated or approved in accordance with N.J.S.A. 13:1E-1 et seq., and shall not be promulgated, revised, updated, or approved through the WQM plan amendment process under (b)6 below.

4. Lists of water quality limited segments, lists of segments where TMDLs will be developed, and project priority lists for TMDL development which are developed by the Department under N.J.A.C. 7:15-6 shall be adopted as amendments to the Statewide WQM Plan. TMDLs developed in accordance with N.J.A.C. 7:15-7 shall be adopted as

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amendments to the relevant Areawide WQM Plan(s). However, such lists, and TMDLs shall be adopted or revised in accordance with N.J.A.C. 7:15-6 or N.J.A.C. 7:15-7, as appropriate, and shall not be adopted or revised through the WQM plan amendment process under (b)6 below. The Department may also publish a draft amendment as an Interested Party Review document or as a pre-proposal prior to formal proposal of the amendment.

5. A regional stormwater management plan prepared in accordance with N.J.A.C. 7:8-3 shall be submitted only by a lead planning agency as a proposed amendment to the applicable areawide WQM plan. In addition, the following changes to an adopted regional stormwater management plan shall be processed as amendments to applicable areawide WQM Plans under this section:

- i. The addition, deletion or modification to any of the drainage area-specific water quality, groundwater recharge or water quantity objectives identified under N.J.A.C. 7:8-3.5;
- ii. The addition, deletion or modification to any drainage area-specific design or performance standard developed under N.J.A.C. 7:8-3.6;
- iii. Any modification to a regional stormwater management plan that the Department or designated planning agency determines is likely to have a significant environmental, social, or economic impact; or
- iv. Any modification that the applicant requests be processed as an amendment.

6. Components of the Statewide WQM Plan other than (b)1 through 5 above may be amended by using the procedure specified in (g) below, except that the Commissioner shall render the final decision identified in (g)9 below.

(c) Areawide WQM plans for designated areas may be amended by designated planning agencies pursuant to their approved plan amendment procedures. The Department may amend the areawide WQM plan for any non designated area, pursuant to the procedures under (g) below. Amendments or provisions thereof for any areawide WQM plan whose specific purpose or effect is to address projects or activities covered by (i) and (j) below, or that are either proposed, constructed, operated or conducted by the State or Federal government, or that are regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), shall be processed only by the Department, regardless of whether the areawide WQM plan is for a designated area or a non-designated area. By the mutual consent of the Department and the designated planning agency, the Department may also process all other amendments to an areawide WQM plan for a designated area.

(d) Plan amendment procedures developed by the designated planning agencies shall be consistent with this section and approved by the Department. Such procedures shall include, but need not be limited to, provisions that:

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1. Allow any interested person to submit to the designated planning agency written, documented petitions to amend the areawide WQM plan;
2. Provide for review by the Department of all proposed amendments prior to public notice;
3. Allow the Department to identify governmental entities, sewerage agencies, and BRC-regulated sewer or water utilities that shall be requested to issue written statements of consent for proposed amendments, such parties being in addition to any governmental entities, sewerage agencies, and BRC-regulated sewer or water utilities identified by the designated planning agency;
4. Provide for publication of public notice of proposed amendments in the New Jersey Register and in a newspaper of general circulation in the designated area; and
5. Provide for adequate public comment periods and opportunities for public hearings before the designated planning agency decides whether to approve an amendment.

(e) Every designated planning agency shall, by December 31, 1989, submit for Department approval plan amendment procedures that have been revised for consistency with this section. Such procedures shall identify the newspaper in which public notices of plan amendments shall be published. All plan amendment procedures that the Department approved before October 2, 1989, but that are not revised and approved by the Department as being consistent with this section, shall become void on March 31, 1990. If a plan amendment procedure becomes void in this manner, the Department shall immediately provide to the designated planning agency a plan amendment procedure that is consistent with this section, and that shall be used by the designated planning agency until a plan amendment procedure is submitted by the designated planning agency and approved by the Department under this subsection.

(f) Within 15 days of approving an amendment, a designated planning agency shall submit to the ORP a copy of the amendment, together with background information for that amendment. WQM plan amendments approved by designated planning agencies are valid only upon the subsequent adoption of such amendments by the Governor or his designee.

(g) Except as provided in (h) below, the Department procedure for amendment of areawide WQM plans is as follows:

1. For amendments which are the Department's responsibility under (c) above, any interested person may petition the Department to amend the areawide WQM plan, or the Department may propose to amend the areawide WQM plan on the Department's own initiative. Requests for amendments shall be submitted in writing to the Office of Regulatory Policy, Department of Environmental Protection, PO Box 029, Trenton, New Jersey 08625-0029.

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2. Requests for amendments shall include, but need not be limited to, a detailed description of the proposed amendment, including documentation substantiating the need for the amendment and other documentation as determined by the Department. Within 90 days of receiving such requests, the Department shall review such requests and shall either:

- i. Disapprove the amendment request, and return it to the applicant; or
- ii. Return the amendment request to the applicant for additional information or other necessary changes. If the applicant then submits a revised amendment request, the Department shall, within 90 days of receiving the revised amendment request, review such request and render a decision under (g)2i above, this subparagraph, or (g)2iii below; or
- iii. Decide to proceed further with the amendment request.

3. The Department shall notify the applicant and the applicable designated planning agency, if any, in writing of its decision under (g)2 above. If the Department's decision is to proceed further with the amendment request under (g)2iii above, then this notification shall include the public notice that shall be given for the proposed amendment. If the proposed amendment is a regional stormwater management plan, the Department shall also notify the Department of Community Affairs and the Department of Agriculture. The applicant shall request written statements of consent under (g)4 below, and shall give public notice by publication in a newspaper of general circulation at the applicant's expense. The Department shall maintain a list identifying the newspaper that shall be used for this purpose in each planning area. The public notice shall also be published in the New Jersey Register. In cases where such Department decisions include a requirement for a non-adversarial public hearing, the public notice shall provide at least 30 days notice of the hearing.

4. Requirements concerning written statements of consent for plan amendments are as follows:

- i. As part of each notification of a decision under (g)2iii above, the Department may identify a list of governmental entities, sewerage agencies, and BRC-regulated sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the proposed amendment, and that shall be asked to issue written statements of consent for the proposed amendment. Within 15 days of receiving such notification, the applicant shall submit by certified mail (return receipt requested) a copy of the proposed amendment to these parties, with a request that they issue written statements of consent for the proposed amendment within 60 days of their receipt of the request.
- ii. A written statement of consent shall include a statement that the party concurs with, or does not object to, the proposed amendment. Tentative, preliminary, or conditional statements shall not be considered to be statements of consent. A statement of consent by a governmental unit shall be in the form of a resolution by that unit's governing body. If

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the party objects in writing to the proposed amendment, the party shall state all reasons for objection in writing.

iii. The applicant shall promptly forward to the ORP a copy of all written statements of consent and other written comments received, and a copy of all requests for consent (with return receipts) sent to parties that did not provide written statements of consent or other written comments within 60 days of their receipt of such requests.

iv. Where a party identified under (g)4i above denies a request for a written statement of consent or does not issue a written statement of consent, the reasons therefor, if known on the basis of reasonably reliable information, shall be considered in making decisions under (g)8 and 9 below.

5. When the Department proposes to amend the areawide plan on its own initiative, the Department shall give public notice by publication in a newspaper of general circulation in the planning area, shall send copies of the public notice to the applicable designated planning agency, if any, and may hold a public hearing or request written statements of consent as if the Department were an applicant under (g)3 and 4 above. The public notice shall also be published in the New Jersey Register.

6. Interested persons, including, but not limited to, those from whom written statements of consent are requested under (g)4i or 5 above, may submit written comments to the ORP within 30 days of the date of the public notice. Interested persons may request that the public comment period be extended up to 30 additional days, and such extensions may be granted to the extent they appear necessary. Requests for such extensions shall be submitted in writing to the ORP within 30 days of the date of the public notice.

7. Interested persons may also request that the Department hold a non-adversarial public hearing; such requests shall be submitted in writing to the ORP within 30 days of the date of the public notice. If there is significant interest, as determined by the Department, in holding a public hearing, then a public hearing will be held. A public notice providing at least 30 days notice of the hearing will be published in the New Jersey Register and in two newspapers of general circulation, and will be mailed to the applicable designated planning agency, if any, and to each party who was requested to issue a written statement of consent for the amendment. The public comment period will be extended until 15 days after the hearing. Except when the Department proposes to amend areawide WQM plans on its own initiative, the applicant shall, at the applicant's expense, mail the public notice, provide for publication of the public notice in two newspapers, secure a court stenographer, and provide three copies of a verbatim transcript of the hearing to the ORP.

8. If any data, information or arguments submitted during the public comment period or in response to a request for written statement of consent appear to raise substantial new questions concerning a proposed plan amendment, the Department may:

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- i. Reopen or extend the public comment period for no more than 30 additional days to give interested persons an opportunity to comment on the information or arguments submitted;
- ii. Disapprove the proposed amendment and, where applicable, return it to the applicant;
- iii. Return the amendment request to the applicant for necessary, substantial changes. If the applicant then submits a revised amendment request, the Department shall review such request in the same manner as a revised amendment request submitted under (g)2ii above; or
- iv. Prepare a new proposed plan amendment, appropriately modified, for proposal under this section.

9. Except where the Department has already disapproved or returned the proposed amendment under (g)8 above, the Governor or his designee shall render a final decision on the amendment. The Governor or his designee shall either:

- i. Adopt the amendment as proposed;
- ii. Adopt the proposed amendment with minor changes that do not effectively destroy the value of the public notice; or
- iii. Disapprove the proposed amendment and, where applicable, return it to the applicant.

10. The Department shall provide written notification of the decision of the Governor or his designee to the applicant where applicable. Notice of the final decision shall also be published in the New Jersey Register.

11. The Department shall retain the administrative record for WQM Plan amendments for the following periods of time:

- i. For each amendment adopted under (g)9 above, a period of not less than three years from the effective date of the amendment.
- ii. For each proposed amendment disapproved or returned under (g)2, 8, or 9 above, a period of not less than one year from the date of disapproval or return.

(h) For amendments identified in (h)3 below, the Department shall modify the plan amendment procedure specified in (g) above in the manner set forth in (h)1 and 2 below. Except as provided in (h)1 and 2 below, the entire procedure specified in (g) above remains applicable to such amendments.

1. In lieu of the consent requirements in (g)3 and 4 above, the Department shall identify a list of potentially affected or interested parties that shall receive notice of the proposed amendment, but that need not be asked to consent to the proposed amendment. Such

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parties shall include the applicable designated planning agency, if any. Within five days of receiving such a list, the applicant shall submit by certified mail (return receipt requested) to these parties a copy of the proposed amendment and a copy of the public notice that will be published pursuant to (g)3 above. The applicant shall promptly forward to the ORP a copy of all letters (with return receipts) sent to these parties under this paragraph. For sewers and pumping stations identified in (h)3ii below, written statements of consent are still required from owners or operators of affected DTW.

2. Instead of the 30 day period specified for these actions in (g)6 and 7 above, interested persons may take the following actions within 10 working days of the date of the public notice:

- i. Submit written comments on the proposed amendment to the ORP;
- ii. Submit written requests to the ORP that the Department extend the public comment period up to 30 additional days; or
- iii. Submit written requests to the ORP that the Department hold a non-adversarial public hearing.

3. The modifications set forth in (h)1 and 2 above shall be used only for amendments whose sole purpose is to address the following projects:

- i. Schools, health care facilities, or correctional facilities, if such schools or facilities are publicly owned or operated; or
- ii. New sewers or pumping stations to serve a project or activity that is partially within a future sewer service area depicted in an areawide WQM plan, if such sewers or pumping stations would convey wastewater from such project or activity to the existing DTW whose sewer service area is depicted in that WQM plan, and if a resolution of consent is received from the owner or operator of that DTW. If a project or activity is partially or entirely within two or more depicted sewer service areas, the new sewers or pumping stations may convey wastewater to one or more such existing DTW, provided that resolutions of consent are received from the owners or operators of the affected DTW in each of the sewer service areas. This subparagraph shall apply only to wastewater service area modifications of less than 10 acres.
- iii. Notwithstanding (h)3ii above, the modifications set forth in (h)1 and 2 above shall not be used for sewers or pumping stations whose construction would violate N.J.A.C. 7:14A-12.21, or that would convey wastewater to DTW whose capacity must by statute, rule or other legal requirement be reserved for other projects or activities. The Department may require the applicant to provide proof from the owner or operator of DTW that would receive the conveyed flow that capacity is available for the applicant's project or activity. This paragraph applies whether treatment works approvals are sought for both construction and operation, or for construction only, of sewers or pumping stations.

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(i) Effluent limitations, including, but not limited to, water quality based effluent limitations, and schedules of compliance established in accordance with N.J.A.C. 7:15-3.1 as NJPDES permit conditions under N.J.A.C. 7:14A-8.6 shall be considered to be part of the areawide WQM plans. NJPDES permit conditions shall be modified only through the procedures specified in the Department's New Jersey Pollutant Discharge Elimination System rules (N.J.A.C. 7:14A), in accordance with applicable Department rules, and shall not be modified through the WQM plan amendment process under (c) or (g) above. This subsection, however, shall not preclude the adoption of effluent limitations or schedules of compliance in areawide WQM plans under (g) above, prior to the establishment of such effluent limitations or compliance schedules as new or revised NJPDES permit conditions.

(j) (Reserved)

(k) Water quality management planning related documentation in present and future 201 Facilities Plans that are approved by the Department and USEPA after May 31, 1975 shall constitute amendments to areawide WQM plans. This documentation may include, but is not limited to: selected facilities alternative, future design capacity and flows, treatment levels, sewer service areas, septage management areas, sludge and septage management and disposal plans, environmental constraints mapping, identification of management agencies, and grant conditions. Itemized abstracts of the appropriate documentation shall be available at the Division of Water Resources. Water quality management planning related documentation in 201 Facilities Plans completed on or prior to May 31, 1975 may be adopted into areawide WQM plans on a case-by-case basis under (c) or (g) above.

(l) In preparing amendments to areawide WQM plans, the following policies shall be adhered to:

1. Existing regional DTW shall be used where such use is cost-effective, environmentally sound, and feasible from an engineering standpoint. Expansion or upgrading of existing regional DTW is generally preferable to construction of additional DTW that would produce additional direct discharges to surface water at new locations.
2. Where a sewer connection ban is in effect under N.J.A.C. 7:14A-12.21 on a DTW, the sewer service area for that DTW shall not be altered unless such alteration would, even in the absence of the sewer connection ban, be cost-effective, environmentally sound, and feasible from the engineering standpoint.

7:15-3.5 Water quality management plan review, revision, and certification

(a) The Department and the designated planning agencies shall periodically review Statewide and areawide WQM Plans in order to propose appropriate amendments under N.J.A.C. 7:15-3.4, and to prepare appropriate revisions under this section.

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(b) The Department and the designated planning agencies shall prepare revisions to Statewide and areawide WQM Plans under this section whenever such revisions are necessary to:

1. Correct, clarify, or update erroneous, unclear, or outdated statements in Statewide and areawide WQM Plans regarding:

i. Development and wastewater treatment facilities existing at the time of the most recently adopted areawide WQM plan or amendment affecting the site; or

ii. Proposed projects, provided that all other Department approvals were received, in full compliance with applicable regulations, at the time of the most recently adopted areawide WQM plan or amendment affecting the site;

2. Transfer or assign wastewater management plan responsibility under N.J.A.C. 7:15-5.13;

3. Revise schedules for submission of wastewater management plans under N.J.A.C. 7:15-5.23(g);

4. Provide for the following substantive changes in Statewide and areawide WQM plans where the Department determines no significant individual or cumulative impacts will occur to environmentally sensitive areas or other natural resources (such as water supplies) due to the proposed revision (individually or in combination with past revisions in the area), that the changes are consistent with N.J.A.C. 7:15-3.6 and 3.7, and that certain directly affected municipal and county agencies and other interests as identified by the Department have been provided an opportunity to review and comment on the proposed revision:

i. Any increase in flow (including both increased loadings and no increased loadings) from industrial treatment works where no change in service area or discharge type (for example, discharge to surface water or ground water) is proposed and the discharge is not to a waterbody segment for which a TMDL has been proposed or adopted under N.J.A.C. 7:15-7. The Department may process such revisions prior to or simultaneously with a NJPDES permit for the same change in flow;

ii. The transfer of sewer service area from one domestic treatment works to another, provided that the approved sewer service areas in the areawide WQM plan are currently contiguous in the area to be transferred, neither domestic treatment works is subject to a sewer connection ban, the proposed revision includes only areas currently designated for sewer service, both the sending and receiving wastewater management planning agencies concur with the proposed revision, and no new or expanded treatment works other than sewer line extensions is proposed as part of the revision;

iii. Any increase of 20,000 gpd or less in planned wastewater flow to an on-site NJPDES-permitted discharge to ground water for a school or public institution, using the

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same general type of treatment works (for example, direct discharge to ground water, spray irrigation);

iv. Any change in the estimated wastewater flow (see N.J.A.C. 7:15-5.16(b)8) or design capacity (see N.J.A.C. 7:15-5.16(b)9) to a NJPDES-permitted discharge to ground water from less than 20,000 gpd to more than 20,000 gpd, provided (b)4v below is satisfied and the same general type of treatment works is proposed;

v. Expansion of a future sewer service area to contiguous lots, where the expansion involves less than 100 acres, contributes less than 8,000 gallons per day of additional wastewater flow, and does not create a significantly new pattern of sewered development such that a significant potential or incentive is created for additional revisions or amendments to open new areas to sewered development; or

5. Provide for any modification in an adopted regional stormwater management plan that does not require an amendment under N.J.A.C. 7:15-3.4(b)5.

(c) The documents that are automatically adopted into the Statewide or areawide WQM Plans under N.J.A.C. 7:15-3.4(b)1 through 4, and 7:15-3.4(i) shall not be revised under this section.

(d) The procedure for revision of Statewide and areawide WQM plans is as follows:

1. The Governor or his designee shall adopt revisions to areawide WQM plans and the Commissioner shall adopt revisions to the Statewide WQM Plan. Such revisions shall take effect immediately, unless the adoption notice specifies otherwise.

2. The Department shall, on an annual basis, make publicly available a list of adopted revisions to WQM plans. Under N.J.A.C. 7:15-3.4, interested persons may submit petitions to amend WQM plans to repeal or modify such revisions.

(e) Designated planning agencies shall revise areawide WQM Plans in accordance with procedures established by such agencies and approved by the Department. All revisions to areawide WQM plans are valid only upon their adoption by the Governor or his designee.

(f) The Governor or his designee shall certify adopted WQM Plans in accordance with United States Environmental Protection Agency regulations.

7:15-3.6 Coordination with Coastal Zone and Hackensack Meadowlands programs

(a) In accordance with N.J.A.C. 7:7E-1.2(h), the Department's Rules on Coastal Zone Management, including, but not limited to, provisions concerning the Hackensack Meadowlands Development Commission at N.J.A.C. 7:7E-1.5(a) and 7:7E-3.45, shall provide the basic policy direction for WQM planning in the New Jersey Coastal Zone defined at N.J.A.C. 7:7E-1.2(b), including, but not limited to, the Hackensack Meadowlands District described in N.J.S.A. 13:17-4.

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(b) In accordance with N.J.A.C. 7:15-3.4(b)1, the water quality related provisions of N.J.A.C. 7:7E, including but not limited to N.J.A.C. 7:7E-8.4, are part of the Statewide WQM Plan.

(c) Under N.J.A.C. 7:7E-8.4 and Section 307(f) of the Coastal Zone Management Act, 33 U.S.C. §§ 1451 et seq., the Department's Coastal Management Program incorporates by reference all requirements established by or pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 et seq., including all requirements contained in this chapter and in WQM plans.

(d) For WQM plan amendments relating to the Hackensack Meadowlands District, the consultation requirement in N.J.S.A. 13:17-9(c) shall be met as follows:

1. For amendments processed under N.J.A.C. 7:15- 3.4(b)4 or (c), the Hackensack Meadowlands Development Commission shall be requested to issue written statements of consent for such amendments under N.J.A.C. 7:15-3.4(g)3 and 4 or N.J.A.C. 7:15-3.4(d)3, as appropriate.
2. For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)3, (i), (j), or (k) that automatically incorporate Department or USEPA actions taken through rulemaking proceedings or water pollution control programs, the consultation requirement in N.J.S.A. 13:17-9(c) shall be addressed, as necessary, through those rulemaking proceedings or programs, and shall not be independently addressed under this section.

7:15-3.7 Coordination with Pinelands program

(a) In accordance with N.J.S.A. 13:18A-8, 16 U.S.C. § 471i(f), and the "Water Resources Planning" element (page 221) of the "Surface and Groundwater Resources Program" contained in Chapter Seven of the Comprehensive Management Plan adopted by the Pinelands Commission on November 21, 1980, comments shall be sought from the Pinelands Commission on proposed WQM plan amendments pertaining to the Pinelands Area defined at N.J.S.A. 13:18A-11 or the Pinelands National Reserve defined at 16 U.S.C. § 471i(c), to ensure that such amendments are consistent with the intent and programs of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 471i.

(b) For WQM plan amendments processed under N.J.A.C. 7:15-3.4(b)4 or (c), the Department shall seek comments from the Pinelands Commission before making the decision required by N.J.A.C. 7:15-3.4(g)2 or 7:15- 3.4(d)2, as appropriate.

(c) For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)3, (i), (j), or (k) that automatically incorporate Department or USEPA actions taken through rulemaking proceedings or water pollution control programs, any need to seek comments from the Pinelands Commission shall be addressed, as necessary, through those

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rulemaking proceedings or programs, and shall not be independently addressed under this section.

7:15-3.8 Validity of water quality management plan amendments

(a) No WQM plan amendment hereafter adopted by the Governor or his designee is valid unless adopted in substantial compliance with this chapter. A proceeding to contest any WQM plan amendment on the ground of noncompliance with the procedural requirements of this chapter shall be commenced within one year from the adoption date of the amendment.

(b) A proceeding to contest any WQM plan amendment adopted by the Governor or his designee prior to October 2, 1989, on the ground of noncompliance with the procedural requirements of this chapter as it existed prior to October 2, 1989, shall be commenced by October 2, 1990.

7:15-3.9 Appeals of Department decisions

(a) Within 20 calendar days from receipt by the applicant of a written notification from the Department of the decision of the Department made pursuant to N.J.A.C. 7:15-3.4(g)2i or ii or 8ii through iv, the applicant may request an adjudicatory hearing to contest the Department decision by submitting a written request to the Department, addressed to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402. The request shall include the following information:

1. The name, address, and telephone number of the applicant and its authorized representative if any;
2. The applicant's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested factors as well as suggested revised or alternative provisions;
3. Information supporting the applicant's factual position and copies of other written documents relied upon to support the request for a hearing;
4. An estimate of the time required for the hearing (in days and/or hours); and
5. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 20 days after receipt by the applicant of a written notification from the Department of the decision of the Department, shall be denied.

(c) During the pendency of the review and hearing on a Department decision made pursuant to this chapter, the challenged Department decision shall remain in full force

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and effect, unless a stay is granted by the Department upon formal request by the applicant.

(d) If the appellant fails to include all the information required by (a) above, the Department may deny the hearing request.

(e) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. If the subject of the hearing is a proposed amendment to the areawide WQM plan for a designated area, the Department shall provide notice of the hearing to the designated planning agency for that area.

(f) Appeals of decisions made by designated planning agencies under this subchapter shall be made to a court of competent jurisdiction.

(g) An appeal of a decision made by the Department pursuant to N.J.A.C. 7:15-3.1 or 3.2 shall be made in accordance with the statutes and rules that govern the permit that is the subject of the decision. Such an appeal shall not be governed by (a) through (e) above.

(h) If the subject of a Department decision identified under (a) above is a proposed amendment to the areawide WQM plan for a designated area, the designated planning agency for that area may request an adjudicatory hearing to contest the Department decision, regardless of whether or not the applicant requests such a hearing. Such requests shall be governed by (a) through (e) above, and the designated planning agency shall be treated in the same manner as an "applicant" for purposes of those subsections.

SUBCHAPTER 4. WATER QUALITY AND WASTEWATER MANAGEMENT POLICIES AND PROCEDURES

7:15-4.1 (Reserved)

7:15-4.2 Projects and activities deemed to be consistent with WQM plans and this chapter

(a) The following treatment works are deemed to be consistent with WQM plans and this chapter:

1. Upgrades of domestic or industrial treatment works, including upgrades accomplished through construction of new treatment works at the same location, that do not exceed existing flows and do not exceed flows identified in areawide WQM plans. However, where levels of treatment are specified in areawide WQM Plans, upgrades that are not designed to achieve such treatment levels shall be deemed to be consistent only if such upgrades are in accordance with approved compliance schedules that provide for the

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future achievement of such treatment levels, and that are included in NJPDES discharge permits, court orders, or Department enforcement documents such as administrative orders or administrative consent orders.

2. Treatment works whose sole purpose is to abate an existing pollution problem, if such treatment works are required by the Department or USEPA.

3. Removal or remedial actions performed or required by the Department or by Federal agencies or by their agents, under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq., or other statutes authorizing Department or Federal removal or remedial actions for hazardous substances.

4. Interim construction or interim expansion of, or interim connection with, domestic or industrial treatment works that are required by law to be abandoned or incorporated at a definite time into other treatment works:

i. That are under construction;

ii. For which contracts have been awarded for construction; or

iii. Whose construction is required by court order or Department order, or by a consent agreement to which the Department is a party.

(b) The initial performance of emergency activities, including, but not limited to, emergency activities allowed by emergency permits issued pursuant to N.J.A.C. 7:14A-2.2, is deemed to be consistent with the WQM plans and this chapter. The Department may require the results of an emergency activity to be removed or modified after such initial performance, in order to obtain conformance with a WQM plan or this chapter.

7:15-4.3 Treatment works not identified in Water Quality Management Plans

(a) Except as provided in N.J.A.C. 7:15-4.2 or 4.4, the following treatment works are considered to be inconsistent with the areawide WQM plan, and shall require an amendment to that plan to be eligible for treatment works approvals, NJPDES discharge permits, or financial assistance under the Clean Water Act, U.S.C. §§ 1251 et seq., or under N.J.A.C. 7:22.

1. New domestic or industrial treatment works, or expansions of existing domestic or industrial treatment works, if such new treatment works or expansions are not identified in the existing areawide WQM plan, are not sewers or pumping stations, and would:

i. Directly discharge to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities); or

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ii. Have a design capacity of 2000 gallons per day or larger.

2. New DTW that would conflict with or be outside of future sewer service areas depicted in the areawide WQM plan.

(b) The provisions of (a) above apply whether treatment works approvals are sought for both construction and operation, or for construction only, of treatment works.

(c) This section does not apply to the following treatment works:

1. Activities identified under N.J.A.C. 7:14A- 12.4 as not requiring treatment works approval;

2. Treatment works components that handle sludge only;

3. Industrial treatment works that do not handle process waste water or sanitary sewage; or

4. DTW that meet the criteria in N.J.A.C. 7:15- 5.18(c)6ii, if such DTW would provide service only in:

i. Areas depicted under N.J.A.C. 7:15- 5.18(c)6 in adopted wastewater management plans; or

ii. Areas identified as "on-site ground water disposal areas", or identified by substantially equivalent names, in wastewater management plans that are adopted or in effect under N.J.A.C. 7:15-5.2.

7:15-4.4 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas

(a) Subject to the provisions of (b) and (c) below and of N.J.A.C. 7:15-5.19, depiction of future sewer service areas in wastewater management plans or elsewhere in areawide WQM plans shall not be construed to prohibit the lawful construction in such areas of the following DTW:

1. Individual subsurface sewage disposal systems for individual residences pursuant to N.J.A.C. 7:9A; or

2. Other DTW that would have a design capacity of less than 2,000 gallons per day, and use either subsurface sewage disposal systems or other sewage disposal systems that would not directly discharge to surface water or onto the land surface.

(b) DTW identified in (a) above shall be constructed in depicted sewer service areas only if legally enforceable guarantees are provided before such construction that the depicted

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sewer service will be used when it becomes available, and that any discharge to ground water will then be discontinued.

(c) DTW that are identified in a(2) above and that require treatment works approval shall not be constructed in the depicted sewer service area of a DTW on which a sewer connection ban is in effect under N.J.A.C. 7:14A-12.21, unless such construction would, even in the absence of the sewer connection ban, be cost-effective, environmentally sound, and feasible from the engineering standpoint.

7:15-4.5 Eligibility for financial assistance

Financial assistance under the Clean Water Act, 33 U.S.C. 1251 §§ et seq., or under N.J.A.C. 7:22, for planning, design, or construction of DTW shall be awarded only to Wastewater Management Agencies identified in a Statewide or areawide WQM Plan.

SUBCHAPTER 5. WASTEWATER MANAGEMENT PLANNING REQUIREMENTS

7:15-5.1 Wastewater management plan requirement for water quality management plan amendments

(a) If a proposed WQM plan amendment under N.J.A.C. 7:15-3.4(c) or (g) includes a DTW not identified in the existing WQM plan, or includes an expansion of an existing DTW above the capacity identified in the existing WQM plan, or modifies a wastewater service area delineation in the existing WQM plan, the Governor or his designee shall adopt the amendment only if the amendment otherwise complies with this chapter and consists of, or includes, a wastewater management plan (WMP), or an amendment to a wastewater management plan, that identifies such DTW, expansion, or modified delineation.

(b) The requirement in (a) above applies only to:

1. Wastewater service area modifications that directly affect 100 or more acres, or the disposition of 20,000 gallons or more per day of wastewater; or
2. DTW that requires a NJPDES discharge permit, and that:
 - i. Directly discharge to surface waters, or onto the land surface (e.g., spray irrigation or overland flow facilities); or
 - ii. Have a design capacity of 20,000 gallons per day or larger.

(c) The requirement in (a) above does not apply to WQM plan amendments whose specific purpose or effect is to address projects or activities that are either proposed, constructed, operated or conducted by the State or Federal government, or that are

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regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), or that are identified in N.J.A.C. 7:15-3.4(h)3.

(d) The Governor or Governor's designee may adopt a WQM amendment affecting a project in (b) above in the absence of a wastewater management plan. This provision is applicable only to proposed amendments that do not involve the identification of a new or expanded treatment works that discharges sanitary wastewater effluent to surface waters, or a new or expanded industrial wastewater treatment works that will discharge to a waterbody segment for which a TMDL has been adopted in accordance with N.J.A.C. 7:15-7. This provision is applicable only if the Department determines that the proposed project-specific amendment shall not result in significant adverse environmental impact or foreclosure of reasonable wastewater management planning options, and that the requirement of (a) above for a wastewater management plan shall be met through one of the following:

1. The wastewater management planning agency provides a binding commitment to the Department to prepare and submit for review a wastewater management plan that meets the requirements of this chapter within six months of the date on which the relevant WQM amendment is adopted; or
2. In the case of a wastewater management plan for a multi-municipal region or county, the wastewater management planning agency provides a binding commitment to the Department to prepare and submit for review a wastewater management plan that meets the requirements of this chapter within a schedule mutually agreed upon by the Department and the wastewater management planning agency, but not to exceed 18 months of the date on which the relevant WQM amendment is adopted.

(e) The deadline in either (d)1 or 2 above shall be set based on adoption of the first amendment that triggers the need for a WMP under (a) above. Additional amendments that would also trigger the need for a WMP under (a) above may be processed prior to expiration of such deadline, but the deadline shall not be extended or provided for another such amendment. If the WMP is not submitted on or before the deadline, no additional amendments shall be processed under this subsection without satisfaction of the WMP requirement.

7:15-5.2 Validity of previously adopted or submitted wastewater management plans

(a) Wastewater management plans adopted between June 1, 1985 and October 2, 1989 shall remain in effect as wastewater management plans in the appropriate areawide WQM plans without the need for further adoption procedures.

(b) The Governor or his designee may, under N.J.A.C. 7:15-3.4, adopt any wastewater management plan that meets the requirements of the former "Policy on Wastewater Management Plans" that was part of the Statewide WQM Plan that the Department adopted on December 5, 1985, but that does not meet the procedural or substantive

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requirements of this subchapter, if a draft of that wastewater management plan was submitted to the Department prior to October 2, 1989.

7:15-5.3 Wastewater management planning agencies, wastewater management plan areas and wastewater management plan responsibility: general statement

(a) A “wastewater management planning agency” (“WMP agency”) is a governmental unit or other person that has “wastewater management plan responsibility” as defined in (b) below. A “wastewater management plan area” (“WMP area”) is the geographic area for which a wastewater management planning agency has “wastewater management planning responsibility”.

(b) N.J.A.C. 7:15-5.4 through 5.8 identify governmental units that have “wastewater management plan responsibility” (“WMP responsibility”) for the wastewater management plan areas specified in those sections, unless alternative assignments of wastewater management plan responsibility are established under N.J.A.C. 7:15-5.9, “Wastewater management plan responsibility” means the duty to:

1. Prepare, submit, and periodically update a wastewater management plan for the wastewater management plan area; and
2. Provide comments on proposed amendments to wastewater management plans under N.J.A.C. 7:15- 3.4.

(c) Wastewater management plans shall be prepared, submitted, and periodically updated only by the wastewater management planning agencies for the corresponding wastewater management plan areas. Such wastewater management planning agencies shall submit wastewater management plans as requests to amend areawide WQM plans in accordance with the procedures specified in N.J.A.C. 7:15-3.4, and in accordance with the schedule specified in N.J.A.C. 7:15-5.23. A wastewater management planning agency may meet its responsibility to prepare and submit wastewater management plans by submitting wastewater management plans prepared by another party on behalf of that wastewater management planning agency.

(d) N.J.A.C. 7:15-5.4 through 5.13 apply notwithstanding any statements about wastewater planning responsibility contained in management agency designations or WQM Plans, or amendments thereto, issued or adopted before the effective date of this subchapter.

(e) The identification under this subchapter of wastewater management plan areas and assignments of wastewater management plan responsibility does not, by itself, establish or change the designations of 201 facilities planning areas or 201 facilities planning agencies. Such designations may be established or modified only by specific provisions for that purpose in amendments to areawide WQM plans under N.J.A.C.7:15-3.4, including but not limited to provisions in wastewater management plans under N.J.A.C. 7:15-5.18(i). The identification of wastewater management plan areas under this

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subchapter does not establish or change the designation of "planning areas" as defined in N.J.A.C. 7:22-10.1.

(f) Except for wastewater management plans identified in N.J.A.C. 7:15-5.2(a), wastewater management plans and amendments thereof are valid only upon their adoption by the Governor or his designee as amendments to areawide WQM plans under N.J.A.C. 7:15-3.4.

7:15-5.4 Responsibility of designated planning agencies

A designated planning agency shall have wastewater management plan responsibility for a wastewater management plan area consisting of all or part of its designated area, if the governing body of that agency adopts and submits to the Department a resolution requesting such responsibility by December 1, 1989. In wastewater management plan areas identified in such resolutions, no other governmental units shall have wastewater management plan responsibility under N.J.A.C. 7:15-5.5 through 5.8.

7:15-5.5 Responsibility of Passaic Valley Sewerage Commissioners

The Passaic Valley Sewerage Commissioners have wastewater management plan responsibility for a wastewater management plan area consisting of the entire Passaic Valley Sewerage District. No other governmental unit shall have such responsibility for any part of that District under N.J.A.C. 7:15-5.6 through 5.8.

7:15-5.6 Responsibility of sewerage authorities and municipal authorities

(a) Except as provided in (b) or (e) below or in N.J.A.C. 7:15-5.4 or 5.5, every sewerage authority and every municipal authority has wastewater management plan responsibility for a wastewater management plan area consisting of that authority's entire district.

(b) A municipal authority does not have wastewater management plan responsibility if that municipal authority does not perform sewerage-related functions in at least part of its district, and does not request wastewater management plan responsibility. Except as provided in (c) below, a municipal authority performs "sewerage-related functions" if it:

1. Owns, leases, constructs, operates, or maintains sewerage facilities, or is a party to a contract providing for or relating to sewerage facilities;
2. Regulates the construction or use of sewerage facilities;
3. Is a permittee or co-permittee under N.J.A.C. 7:14A for a DTW, or has applied to be such a permittee or co-permittee;
4. Seeks WQM plan amendments for sewerage facilities;

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5. Receives or seeks to receive Federal or State financial assistance for sewerage facilities; or
6. Is required by statute, rule, contract, court order, Department order, consent agreement, or other legal obligation to perform any of the activities listed in (b)1 through 5 above.

(c) The activities listed in (b)1 through 6 above shall not be considered "sewerage-related functions" if such activities are:

1. Performed solely to carry out the municipal authority's water supply, solid waste, chemical or hazardous waste, or hydroelectric power functions; or
2. Pertain solely to sewage that arises on property owned or leased by the municipal authority, and that is conveyed to sewerage facilities not owned, leased, operated, or maintained by the municipal authority.

(d) The Department may, at any time, send a letter to any municipal authority, requesting that authority to declare in writing to the ORP whether or not that authority performs any of the sewerage-related functions listed under (b) and (c) above, and whether or not that authority requests wastewater management plan responsibility. If that authority does not make such a declaration within 90 calendar days of receipt of the letter, the Department shall, in the absence of information to the contrary, presume that the authority performs sewerage-related functions or requests wastewater management plan responsibility.

(e) Where there is overlap between the districts of two or more authorities that would otherwise have wastewater management plan responsibility for their entire districts under this section, wastewater management plan responsibility in the overlap is assigned by the following criteria:

1. If only one of the authorities is a county utilities authority, only that county utilities authority has wastewater management plan responsibility in the overlap.
2. If none of the authorities is a county utilities authority, and if only one of the authorities is a regional authority, only that regional authority has wastewater management plan responsibility in the overlap.
3. If both of the conditions in (e)1 or 2 above are not met, and if only one of the authorities owns, leases, operates, or maintains a DTW that requires a NJPDES permit, and that is located within or serves all or part of the overlap, then only that authority has wastewater management plan responsibility in the overlap.
4. If none of the conditions in (e)1, 2, or 3 above is met, arrangements shall be made under N.J.A.C. 7:15-5.9 to assign wastewater management plan responsibility in the overlap to a single governmental unit.

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(f) For purposes of (e) above, "overlap" exists when the district of one authority is partially or completely within, or identical to, the district of one or more other authorities.

(g) When wastewater management plan responsibility is assigned under (e) above to an authority or other governmental unit that also has wastewater management plan responsibility outside the overlap, the entire geographic area for which the authority or other governmental unit has wastewater management plan responsibility shall constitute a single wastewater management plan area.

7:15-5.7 Responsibility of joint meetings

(a) Except as provided in (b) below, every joint meeting has wastewater management plan responsibility for a wastewater management plan area consisting of the entirety of all municipalities that are members of that joint meeting.

(b) No joint meeting has wastewater management plan responsibility for any location that:

1. Is within a wastewater management plan area for which another governmental unit has wastewater management plan responsibility under N.J.A.C. 7:15-5.4 through 5.6; or
2. Does not generate sewage that is received by any sewerage facilities owned, leased, operated, or maintained by the joint meeting, and is not projected to generate such sewage in the 20 year projection period of the wastewater management plan.

7:15-5.8 Responsibility of municipalities

(a) Except as provided in (c) below, every municipality that performs sewerage-related functions in at least part of the municipality has wastewater management plan responsibility for a wastewater management plan area consisting of the entire municipality.

(b) Except as provided in (c) below, a municipality performs "sewerage-related functions" if the municipality either:

1. Owns, leases, constructs, operates, or maintains any sewerage facilities, under N.J.S.A. 40:63-1 et seq. or other statutes;
2. Is a party to a contract providing for or relating to sewerage facilities under N.J.S.A. 40:63-1 et seq., 40:14A-23, 40:14B-49, 58:27-1 et seq., or other statutes;
3. Has an ordinance under N.J.S.A. 40:63-6 that provides for, establishes, or alters a general system of sewerage;
4. Has an ordinance under N.J.S.A. 40:63-52 requiring buildings to be connected with sewers;

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5. Has an ordinance under N.J.S.A. 40:55D-37 requiring approval of either subdivisions or site plans or both;
6. Has a zoning ordinance under N.J.S.A. 40:55D- 62 that includes standards for the provision of sewerage facilities;
7. Has a master plan under N.J.S.A. 40:55D-28 that includes a utility service plan element for sewerage and waste treatment;
8. Has a capital improvements program under N.J.S.A. 40:55D-30 that includes sewerage projects;
9. Has an ordinance under N.J.S.A. 40:56-1 for undertaking sewerage improvements as local improvements;
10. Has a sewerage district under N.J.S.A. 40:63-32 through 40 or N.J.S.A. 40A:18-1 et seq.;
11. Has granted an unexpired franchise to a public utility to provide sewerage service regulated under N.J.S.A. 48:1-1 et seq.;
12. Has an ordinance regulating sewerage facilities under N.J.S.A. 40:48-2;
13. Is a permittee or co-permittee under N.J.A.C. 7:14A for DTW, or has applied to be such a permittee or co-permittee;
14. Seeks WQM plan amendments for DTW;
15. Receives or seeks to receive Federal or State financial assistance for DTW; or
16. Is required by statute, rule, contract, court order, Department order, consent agreement, or other legal obligation to perform any of the activities, or adopt any of the ordinances, plans, or other programs, listed in (b)1 through 15 above.

(c) The activities listed in (b) above shall not be considered "sewerage-related functions" if they:

1. Pertain solely to sewage that arises on property owned or leased by the municipality, and that is conveyed to sewerage facilities not owned, leased, operated, or maintained by that municipality;
2. Are performed by the municipality solely through the agency of an authority or joint meeting; or
3. Pertain solely to stormwater.

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(d) The Department may, at any time, send a letter to any municipality, requesting that municipality to declare in writing to the ORP whether or not that municipality performs any sewerage-related functions as discussed under (b) and (c) above. If that municipality does not make such a declaration within 90calendar days of receipt of the letter, the Department shall, in the absence of information to the contrary, presume that the municipality performs sewerage-related functions.

(e) No municipality has wastewater management plan responsibility in any wastewater management plan area for which another governmental unit has wastewater management plan responsibility under N.J.A.C. 7:15-5.4through 5.7.

7:15-5.9 Alternative assignment of wastewater management plan responsibility: general statement

(a) Alternative assignments of wastewater management plan responsibility, different from those set forth in N.J.A.C. 7:15-5.4 through 5.8, shall be made and subsequently changed if and only if such alternative assignments or changes thereto are adopted as amendments to areawide WQM plans under N.J.A.C.7:15-3.4(c) or (g), or as revisions to WQM Plans underN.J.A.C.7:15-5.13 and N.J.A.C. 7:15-3.5. Amendments or revisions that change alternative assignments may establish different alternative assignments, or may restore wastewater management plan responsibilities set forth in N.J.A.C. 7:15-5.4 through 5.8.

(b) N.J.A.C. 7:15-5.10 through 5.13 identify some but not necessarily all of the alternative assignments of wastewater management plan responsibility that may be adopted as WQM Plan amendments or revisions under (a)above.

(c) Except if specifically provided otherwise in the amendment or revision under (a) above, any wastewater management plan responsibility assigned to a governmental unit under (a) above is in addition to, and does not diminish, any wastewater management plan responsibility which that governmental unit already has under N.J.A.C. 7:15-5.4 through 5.8 or this section.

(d) In deciding whether or not to establish or change alternative assignments of wastewater management plan responsibility under (a) above, consideration shall be given, but not be limited to, the following general principles:

1. The Department shall generally support amendments or revisions that:
 - i. Establish regional wastewater management plan areas;
 - ii. Encourage the development and management of cost-effective, environmentally sound wastewater facilities and wastewater management, including comprehensive regional sewerage facilities and management where appropriate;

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- iii. Assign, to a governmental unit that will have long-term responsibility to own or operate a DTW that will require a NJPDES discharge permit, the wastewater management plan responsibility for the entire area that is projected to generate sewage that will be conveyed to that governmental unit's DTW;
 - iv. Assign wastewater management plan responsibility to governmental units rather than to private persons; or
 - v. Prevent or eliminate geographic overlap of wastewater management plan areas.
2. The Department shall generally oppose amendments or revisions that:
- i. The Department considers to be contrary to one or more of the principles expressed in (d)1 above;
 - ii. Remove wastewater management plan responsibility from a governmental unit or private person, unless another governmental unit or private person already has or receives wastewater management plan responsibility for the subject geographic area;
 - iii. Include part of a municipality in a wastewater management plan area, but leave the remainder of the municipality outside any wastewater management plan area;
 - iv. Assign wastewater management plan responsibility, for all or part of a designated planning area, to a designated planning agency that does not want such responsibility at the time the amendment is proposed, except where such assignment is necessary to resolve wastewater management problems that cannot satisfactorily be resolved at other levels;
 - v. Assign wastewater management plan responsibility, for all or part of a county, to a county planning board that does not request such responsibility; or
 - vi. Assign wastewater management plan responsibility to the Department, except as a last resort.
- (e) The Department may determine that a governmental unit identified under N.J.A.C. 7:15-5.4 through 5.8 is unable to exercise wastewater management plan responsibility effectively. Upon the adoption of such a determination in an amendment to an areawide WQM plan under (a) above, N.J.A.C. 7:15-5.4 through 5.8 shall be administered without regard to the existence of such governmental unit, or other assignments of wastewater management plan responsibility may be made in the amendment. Such a determination may be rescinded in a subsequent amendment to an areawide WQM plan.

7:15-5.10 Wastewater management plan responsibility as condition for financial assistance

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A WQM plan amendment under N.J.A.C. 7:15-5.9 may assign wastewater management plan responsibility to a governmental unit, for the wastewater management plan area identified in that amendment, as a condition of that governmental unit's being eligible to apply for or receive a grant, loan, or other financial assistance for wastewater facilities, if such financial assistance is subject to Department certification or approval.

7:15-5.11 Wastewater management plan responsibility for complete wastewater service area

(a) A WQM plan amendment under N.J.A.C. 7:15-5.9 may assign wastewater management plan responsibility to a governmental unit that is, or has applied to be, a permittee or co-permittee under N.J.A.C. 7:14A for a DTW that requires a NJPDES discharge permit, or that owns, leases, or seeks a WQM plan amendment for such a DTW, for the entire area that generates sewage conveyed to that DTW, or that is projected to generate such sewage in the 20 year projection period of the wastewater management plan.

(b) Every wastewater management planning agency automatically assumes wastewater management plan responsibility for any additional sewer service area identified in that wastewater management planning agency's wastewater management plan under N.J.A.C.7:15-5.18(c)4, upon adoption of that wastewater management plan by the Governor or his designee.

7:15-5.12 Joint wastewater management plan responsibility

A WQM plan amendment under N.J.A.C. 7:15-5.9 may assign joint wastewater management plan responsibility for a unified wastewater management plan area to two or more governmental units that would otherwise have wastewater management plan responsibility for separate but contiguous wastewater management plan areas.

7:15-5.13 Voluntary establishment of wastewater management plan responsibility

(a) With the consent of the Department and of the parties making and receiving the transfer, wastewater management plan responsibility for all or part of a wastewater management plan area may be transferred from one governmental unit or private person to another.

(b) With the consent of the Department and of the party receiving the assignment, wastewater management plan responsibility may be assigned to a governmental unit or private person for a wastewater management plan area for which no other party has wastewater management plan responsibility under this subchapter.

(c) Transfers or assignments of wastewater management plan responsibility under (a) or (b) above do not require WQM Plan amendments under N.J.A.C. 7:15-3.4, but shall be adopted as WQM Plan revisions under N.J.A.C. 7:15-3.5.

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(d) This section shall not be construed to prevent wastewater management plan responsibility from being transferred or assigned by WQM plan amendment under N.J.A.C. 7:15-5.9 and N.J.A.C. 7:15-3.4. Such transfers or assignments may be made without the consent of the affected parties.

7:15-5.14 District boundaries and related information; joint meeting membership

(a) To assist the identification of wastewater management plan responsibility under N.J.A.C. 7:15-5.5 through 5.8, the following information shall be submitted in writing to the Department by January 30, 1990:

1. The Passaic Valley Sewerage Commissioners, every sewerage authority, and every municipal authority shall:

- i. List each municipality that is entirely within their district;
- ii. List each municipality, if any, that is partially within their district; and
- iii. Submit a map depicting the boundaries of the district within any municipality listed under (a)1i above, using 1:24,000, United States Geological Survey quadrangle maps as a base.

2. Every sewerage authority and every municipal authority shall also:

- i. Identify the date when each municipality listed under (a)1i or ii above became part of the district of that authority; and
- ii. Identify the statute under which the authority was created and the date, if any, when the authority was reorganized under N.J.S.A. 40:14B-6.

3. Every joint meeting shall list the municipalities that are members of that joint meeting.

(b) Whenever a new authority or joint meeting is created, or an existing authority is reorganized under N.J.S.A. 40:14B-6, or the district of an existing authority is modified, or an additional municipality becomes a member of an existing joint meeting, such authority or joint meeting shall, by letter to the ORP, provide or update the information required under (a)2 or 3 above within 120 calendar days of such event.

(c) The Department may at any time request the Passaic Valley Sewerage Commissioners or any authority or joint meeting to update information provided under (a) or (b) above, and such governmental units shall submit such information in writing to the ORP within 120 calendar days of receiving such request.

(d) To assist the identification of wastewater management plan responsibility, the Department may consult other sources of information, including but not limited to

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resolutions or ordinances filed in the office of the Secretary of State under N.J.S.A. 40:14A4 or 40:14B-7.

(e) If an authority or joint meeting cannot identify with reasonable certainty the boundaries of its district or other information required under (a) through (c) above, the authority or joint meeting shall make a written declaration to that effect to the ORP, and shall provide its best estimate. Such estimates, together with any other information obtained under (d) above, shall suffice to define the geographic scope of wastewater management plan responsibility under N.J.A.C. 7:15-5.6 or 5.7.

(f) The Department may exempt a municipal authority from the requirements of this section if that authority makes the declaration identified in N.J.A.C. 7:15-5.6(d).

7:15-5.15 Contents of wastewater management plans; general statement

(a) Each wastewater management plan shall consist of written descriptions and maps of existing and future wastewater-related jurisdictions and wastewater service areas, and of selected environmental features. A wastewater management plan shall also include written descriptions and maps of specified categories of existing and future treatment works, if such treatment works presently exist or are necessary to meet anticipated wastewater management needs. More specific requirements for these written descriptions and maps are set forth in N.J.A.C. 7:15-5.16 through 5.20.

(b) In accordance with N.J.A.C. 7:15-5.16 through 5.20, each wastewater management plan shall address all types of DTW and all methods of domestic wastewater disposal, including but not limited to surface water discharges and ground water discharges, to the extent that such DTW and methods of domestic wastewater disposal presently exist or are necessary to meet anticipated wastewater management needs. In accordance with N.J.A.C. 7:15-5.16 and 5.20, each wastewater management plan shall provide information about specified categories of existing industrial treatment works.

7:15-5.16 Existing jurisdictions, wastewater service areas, and treatment works

(a) Each wastewater management plan shall include maps of existing wastewater jurisdictions, existing wastewater service areas, and any existing treatment works in the categories specified in (a)3 or 5 below. These maps shall depict the following information:

1. The existing boundaries of the wastewater management plan area;
2. The boundaries, within the wastewater management plan area, or within any 20-year sewer service area identified under N.J.A.C. 7:15- 5.18(c)4, of the following:
 - i. Any existing districts, and the existing franchise areas for sewerage service of any public utilities; and

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ii. Any areas within the Hackensack Meadowlands District defined at N.J.S.A. 13:17-4, the Pinelands Area defined at N.J.S.A. 13:18A-11, the Pinelands National Reserve defined at 16 U.S.C. § 471i(c), or the "coastal area" described in N.J.S.A. 13:19-4.

3. The location, within or outside the wastewater management plan area, of each existing treatment works, if any, that is not a sewer or a pumping station, but that receives wastewater that arises within or is conveyed into or through the wastewater management plan area, if such treatment works is:

i. A DTW that directly discharges to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities);

ii. A DTW that has a design capacity of 2,000 gallons per day or larger, and stores or disposes of sewage by any means; or

iii. An industrial treatment works that requires a NJPDES discharge permit and that handles process waste water or sanitary sewage.

4. The location of each existing discharge to surface or ground water from each treatment works mapped within the wastewater management plan area under (a)3 above, and the location of any overflow discharges of sewage within the wastewater management plan area;

5. The location of each existing pumping station and major interceptor and trunk sewer, if any, within the wastewater management plan area;

6. Except as provided under (a)9 below, the present sewer service area, within or outside the wastewater management plan area, for each:

i. Each DTW mapped within the wastewater management plan area under (a)3 above, distinguishing the separate area served by each DTW; and

ii. Each industrial treatment works that is mapped within the wastewater management plan area under (a)3 above, and that serves property other than the property on which the industrial treatment works is located, distinguishing the separate area served by each industrial treatment works.

7. Except as provided under (a)9 below, the present sewer service area, within the wastewater management plan area, for:

i. Each DTW mapped outside the wastewater management plan area under (a)3 above, distinguishing the separate area served by each DTW; and

ii. Each industrial treatment works that is mapped outside the wastewater management plan area under (a)3 above, and that serves property other than the property on which the

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industrial treatment works is located, distinguishing the separate area served by each industrial treatment works.

8. Any areas within the wastewater management plan area that, as regards DTW, are presently served only by either or both of the following:

- i. Individual subsurface sewage disposal systems for individual residences; or
- ii. Other DTW that have a design capacity of less than 20,000 gallons per day, use either subsurface sewage disposal systems or other sewage disposal systems that have no direct discharge to surface water or onto the land surface and do not have aggregate service areas mapped under (a)9 below;

9. The requirements in (a)6 and 7 above do not apply to DTW that are mapped under (a)3ii above, but that have a design capacity of less than 20,000 gallons per day. However, if two or more such DTW, on a single lot or on two or more adjacent lots, in combination have a design capacity of 20,000 gallons per day or larger, the aggregate service area of such DTW shall be depicted and distinguished from other areas mapped under (a)6 through 8 above.

(b) Each wastewater management plan shall provide the following information, in narrative, outline, or tabular form, for each existing treatment works or each existing DTW, as appropriate, mapped within the wastewater management plan area under (a)3 above:

1. Name and owner of the treatment works;
2. Name of any other governmental unit or corporation, if any, responsible for operating the DTW;
3. Location of the treatment works within municipality, county, and WQM planning area, and within any district;
4. NJPDES discharge permit number, if any, for any discharges from the treatment works;
5. Name of NJPDES permittee and any co-permittee under N.J.A.C. 7:14A for any discharges from the DTW;
6. Name and classification, under N.J.A.C. 7:9-4 and N.J.A.C. 7:9-6, of any surface and ground waters receiving any discharges from the treatment works;
7. Estimate of existing residential population served by the treatment works within and outside the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations;

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8. Actual flow of wastewater received by the treatment works, in millions of gallons per day (MGD), expressed as total flow, as estimated flow arising within and outside the wastewater management plan area, and as estimated flow, disaggregated by municipality and attributed to each of the following sources: residential, commercial, industrial, and infiltration/inflow; and

9. Existing design capacity of the DTW.

(c) Each wastewater management plan shall include the following information, in narrative, outline, or tabular form, for each existing treatment works mapped outside the wastewater management plan area under (a)3 above:

1. Name and owner of the treatment works;

2. Estimate of existing residential population served by the treatment works within the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and

3. Estimated average flow of wastewater conveyed to the treatment works from the wastewater management plan area, in millions of gallons per day, disaggregated by municipality and expressed as total flow and as estimated flow attributed to each of the following sources: residential, commercial, industrial, and infiltration/inflow.

(d) For a particular treatment works, the Department may waive the disaggregation of flow by municipality or land use under (b)8 and (c)3 above, if it is demonstrated to the satisfaction of the Department that such disaggregation would require data not readily available for that treatment works.

(e) Each wastewater management plan shall state whether or not there are combined sewers in the wastewater management plan area.

(f) For purposes of (a), (b) and (c) above, "existing" or "present" means existing or present at the time the particular wastewater management plan is being prepared or updated, as the case may be.

7:15-5.17 Mapping of environmental features

(a) Each wastewater management plan shall include mapping of each of the following environmental features in the wastewater management plan area, and in any additional sewer service area identified in that wastewater management plan under N.J.A.C. 7:15-5.18(c)4:

1. Coastal wetlands that have been mapped by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.;

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2. Other freshwater and estuarine wetlands, based on maps prepared by the Department under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-25c, or if such Department maps are not available, the National Wetlands Inventory maps prepared by the United States Fish and Wildlife Service;
3. Flood prone areas, based on the following information sources in order of preference:
 - i. Delineations of flood hazard areas made by the Department under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., where such delineations exist;
 - ii. Delineations of flood hazard areas by the Federal Emergency Management Agency under the National Flood Insurance Program, 42 U.S.C. §§ 4001-4128;
4. Public open space and recreation areas that include at least 10 acres of undeveloped land, including:
 - i. National recreation areas, wildlife refuges, and historical parks administered by the United States Department of the Interior;
 - ii. State and interstate parks, forests, wildlife management areas, natural areas, and recreation areas administered by the Department or the Palisades Interstate Park Commission; and
 - iii. County and municipal parks, reservations, preserves, and other conservation or recreation areas;
5. River areas designated under the New Jersey Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., or the Federal Wild and Scenic Rivers Act, 16 U.S.C. §§ 1278 et seq.;
6. Category One Waters, trout production waters, and trout maintenance waters designated in the Department's Surface Water Quality Standards, N.J.A.C. 7:9-4, based on the Department's maps of such waters; and
7. Surface waters, as mapped on USGS quadrangle maps.

7:15-5.18 Future wastewater jurisdictions, service areas, and domestic treatment works

(a) In accordance with the provisions of this section, each wastewater management plan shall include a description of wastewater service areas and DTW necessary to meet anticipated wastewater management needs over a 20-year period. A wastewater management plan may also include such descriptions for shorter or longer periods.

1. Each wastewater management plan shall provide for cost-effective, environmentally sound wastewater management, including existing or new comprehensive regional DTW or regional management where appropriate. Upgrading or expansion of existing regional

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DTW is generally preferable to construction of additional DTW that would produce additional direct discharges to surface water at new locations.

2. On a case-by-case basis, the Department may require wastewater management planning agencies to examine specific wastewater management alternatives as part of the preparation of the wastewater management plan. The Department may require such examination to include analysis of critical economic, social, environmental, or institutional factors pertaining to such alternatives.

(b) Subject to the requirements, qualifications, and exceptions listed in (b)3 through 8 below, wastewater service areas and DTW shall, to the maximum extent practicable, be identified in such a manner as to provide adequate wastewater service for:

1. Land uses allowed in zoning ordinances that have been adopted and are in effect under N.J.S.A. 40:55D-62; or

2. Future land uses shown in municipal or county master plans that have been adopted and are in effect under N.J.S.A. 40:55D-28 or N.J.S.A. 40:27- 2. If such master plans are used, wastewater service areas and DTW shall, to the maximum extent practicable, be identified in a manner consistent with any sewerage provisions in such master plans.

3. The wastewater management plan shall list all of the zoning ordinances, municipal master plans, or county master plans on which the wastewater management plan is based. If any zoning ordinance is used, the documentation for the wastewater management plan shall include a copy of the map of the districts in that ordinance, and of the regulations in that ordinance which specify the type, density, and intensity of land use allowed in each district. If any master plan is used, documentation for the wastewater management plan shall include a copy of the map of proposed future land uses contained in that master plan, a copy of any text in the master plan which is needed to interpret the map, and a copy of any provisions in the master plan that address sewerage and waste treatment.

4. Due regard shall be given to the degree of likelihood that land development allowed in zoning ordinances will occur in the 20-year period, and to any substantial differences between dates associated with future land uses shown in master plans and the dates on which the 20-year periods end.

5. If, for particular locations, a zoning variance under article 9 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., allows land development that would generate more wastewater than would the development allowed in the zoning ordinance or shown in the master plan, then for some or all of those locations the wastewater management plan may be based on the zoning variance rather than on the zoning ordinance or the master plan.

6. If, for particular locations, preliminary or final subdivision or site plan approvals under article 6 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., have allowed land development that would generate more wastewater than would the development allowed in the zoning ordinance or shown in the master plan, then for those locations the

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wastewater management plan shall be based on such approvals rather than on the zoning ordinance or the master plan.

7. Wastewater management plans relating to the New Jersey Coastal Zone, the Hackensack Meadowlands District, the Pinelands Area, or the Pinelands National Reserve are subject to the requirements of N.J.A.C. 7:15-3.6 or 3.7, as appropriate.

8. The wastewater management plan may be inconsistent with zoning ordinances or master plans for other compelling reasons, provided that the wastewater management plan specifically identifies such inconsistencies and sets forth such reasons with adequate documentation.

(c) Each wastewater management plan shall include maps of future wastewater service areas, and of specified categories of future DTW, that are necessary to meet anticipated wastewater management needs at the end of the 20-year period, and at the end of any shorter or longer period identified under (a) above. These maps shall depict the following:

1. The location, within or outside the wastewater management plan area, of each existing, expanded, or new DTW, if any, that would not be a sewer or a pumping station, but that would receive sewage that would arise within or be conveyed into or through the wastewater management plan area, if such DTW would require a NJPDES discharge permit and:

i. Directly discharge to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities); or

ii. Have a design capacity of 20,000 gallons per day or larger, and store or dispose of sewage by any means;

2. The location of each discharge to surface or ground water from each DTW mapped within the wastewater management plan area under (c)1 above;

3. The location of each existing, expanded, or new pumping station and major interceptor and trunk sewer, if any, that would convey sewage within the wastewater management plan area;

4. The sewer service area, within or outside the wastewater management plan area, for each DTW mapped within the wastewater management plan area under (c)1 above, distinguishing the separate area to be served by each DTW;

5. The sewer service area, within the wastewater management plan area, for each DTW mapped outside the wastewater management plan area under (c)1 above, distinguishing the separate area to be served by each DTW;

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6. The area, if any, within the wastewater management plan area that would be served only by either or both of the following:

- i. Individual subsurface sewage disposal systems for individual residences; or
- ii. Other DTW that would have a design capacity of less than 20,000 gallons per day, and use either subsurface disposal systems or other sewage disposal systems that would have no direct discharge to surface water or onto the land surface; and

7. The area, if any, within the wastewater management plan area that would be served only by either or both of the following:

- i. Individual subsurface sewage disposal systems for individual residences; or
- ii. Other DTW that would have a design capacity of less than 2,000 gallons per day, and use either subsurface disposal systems or other sewage disposal systems that would have no direct discharge to surface water or onto the land surface.

(d) For each DTW mapped within the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period, and at the end of any shorter or longer period identified under (a) above:

- 1. Owner and, where known, name of the DTW;
- 2. Name of any other governmental unit or corporation, if any, to be responsible for operating the DTW;
- 3. Location of the DTW within municipality, county, and WQM planning area, and within any existing district;
- 4. Where known, NJPDES permit number for any discharges from the DTW;
- 5. Name of present or proposed NJPDES permittee and any co-permittee for any discharges from the DTW;
- 6. Name and present classification, under N.J.A.C. 7:9-4 and N.J.A.C. 7:9-6, of any surface and ground waters that would receive any discharges from the DTW;
- 7. Estimate of residential population to be served by the DTW within and outside the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and
- 8. Estimated average flow of wastewater to be received by the DTW, in millions of gallons per day, disaggregated by municipality and expressed as total flow, as flow

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arising within and outside the wastewater management plan area, and as flow attributed to each of the following sources: residential, commercial, and industrial.

(e) For each DTW mapped outside the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period, and at the end of any shorter or longer period identified under (a) above:

1. Owner and, where known, name of the DTW;
2. Estimate of residential population to be served by the DTW within the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and
3. Estimated average flow of wastewater to be conveyed to the DTW from the wastewater management plan area, in millions of gallons per day, disaggregated by municipality and expressed as total flow and as flow attributed to each of the following sources: residential, commercial and industrial.

(f) The wastewater management plan shall document the basis for the estimated flows attributed to residential, commercial, and industrial sources under (d)8 and (e)3 above. Where actual, accurate gauging is available for a sewer system already in existence, such gauging shall be used in preparing these flow estimates, with an allowance for future changes in wastewater flow. There shall be a reasonable relationship between these flow estimates and sewer service areas identified under (c)4 and 5 above. There shall be a reasonable relationship, consistent with (b) above, between these sewer service areas and residential population estimates under (d)7 and (e)2 above. The average domestic flow from new development, exclusive of industrial flows, shall be calculated utilizing the projected flow criteria found at N.J.A.C. 7:14A-23.3. In instances where future specific residential dwelling types are unknown, the residential flow calculation may be computed using 75 gallons per capita per day. No additional provisions for inflow and infiltration shall be made as the above flows include allowances for inflow and infiltration.

(g) Unless expressly stated otherwise in the wastewater management plan, disaggregations of estimated flows by municipality and land use under (d)8 and (e)3 above shall serve only to document the basis for estimates of total flow under those paragraphs, and shall not constitute legally enforceable flow allocations to those municipalities or land uses.

(h) If the Department has waived under N.J.A.C. 7:15-5.16(d) the disaggregation by municipality or land use of existing flow to a DTW, then the disaggregation of estimated flow by municipality or land use under (d)8 and (e)3 above shall be limited to disaggregation of future changes in wastewater flow to that DTW.

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(i) A wastewater management plan may identify specific changes to assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.9, or specific changes to 201 facilities planning responsibilities. Such changes shall take effect upon adoption of the wastewater management plan under N.J.A.C. 7:15-3.4. A wastewater management plan may suggest the establishment, modification, or elimination of districts or franchise areas under N.J.S.A. 40:14A-1 et seq., 40:14B-1 et seq., 58:14-1 et seq., or 48:1-1 et seq., but such districts or franchise areas shall be established, modified or eliminated only in the manner provided by law. Inclusion of such suggestions in an adopted wastewater management plan does not, by itself, accomplish such establishment, modification, or elimination.

7:15-5.19 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas

(a) In sewer service areas depicted under N.J.A.C. 7:15-5.18(c)4 or 5, a wastewater management plan may require the construction of DTW identified in N.J.A.C. 7:15-4.4(a)1 or 2 to be accompanied by construction of collection system sewers that would be used when the depicted sewer service becomes available. This requirement shall exist only if it is specifically stated in the wastewater management plan.

(b) A wastewater management plan shall require that individual subsurface sewage disposal systems for individual residences can be constructed in depicted sewer service areas only if legally enforceable guarantees are provided before such construction that use of such systems will be discontinued when the depicted sewer service becomes available.

(c) A wastewater management plan shall not apply requirements under (a) or (b) above to individual subsurface sewage disposal systems that do not require certifications from the Department under N.J.S.A. 58:11-25.1 or individual permits from the Department under N.J.A.C. 7:14A, unless that wastewater management plan includes adequate arrangements for enforcement of such requirements by one or more substate governmental units.

(d) Estimated wastewater flows under N.J.A.C. 7:15-5.18(d)8 and (e)3 shall include flows that would be received when use of DTW identified in N.J.A.C. 7:15-4.4(a)1 and 2 is discontinued when depicted sewer service becomes available.

7:15-5.20 Specifications for text and graphics

(a) Wastewater management plans should be concise, using the minimum feasible narrative and mapping. All pages, tables, and figures in wastewater management plans shall be legible and numbered.

(b) All maps in wastewater management plans shall use 1:24,000 scale United States Geological Survey quadrangle maps as a base, except that other maps at other scales may

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be provided as supplements. Each wastewater management plan shall include the following main maps at 1:24,000 scale:

1. A map depicting the existing boundaries of the wastewater management plan area and the existing treatment works and service areas identified under N.J.A.C. 7:15-5.16(a)3 through 9;
2. A map depicting future DTW and service areas identified at the end of the 20-year period under N.J.A.C. 7:15-5.18(c)1 through 6 and a corresponding map for any shorter or longer period identified under N.J.A.C. 7:15-5.18(a). Wherever feasible, the boundaries of future service areas shall coincide with recognizable geographic or political features. The existing boundaries of the wastewater management plan area shall also be depicted on any map under this paragraph; and
3. One or more maps depicting the existing boundaries of the wastewater management plan area, and the environmental features identified under N.J.A.C. 7:15-5.17. This map shall also state that development in areas mapped as wetlands, flood prone areas, or designated river areas may be subject to special regulation under Federal or State statutes or rules, and that interested persons should check with the Department for the latest information. Depiction of environmental features shall be for general information purposes only, and shall not be construed to define the legal geographic jurisdiction of such statutes or rules.

(c) Any other mapping required by N.J.A.C. 7:15-5.16 through 5.18 may be included on one or more of the main maps listed in (b) above, or on other 1:24,000 scale maps.

7:15-5.21 Geographic overlap between wastewater management plans prohibited

(a) After the effective date of this subchapter, the Governor or his designee shall not adopt a wastewater management plan that maps, under N.J.A.C. 7:15-5.18(c)1 or 4, any DTW or sewer service area outside the existing wastewater management plan area for that wastewater management plan, so long as that DTW or sewer service area is within a separate wastewater management plan area for which a separate, adopted wastewater management plan is in effect.

(b) To avoid geographic overlap prohibited by (a) above, existing assignments of wastewater management plan responsibility may be changed under N.J.A.C. 7:15-5.9, and adopted wastewater management plans may be amended or repealed under N.J.A.C. 7:15-3.4.

7:15-5.22 Consultation and consent for wastewater management plans

(a) Every wastewater management planning agency that prepares a wastewater management plan, and every governmental unit or other person that prepares an amendment to a wastewater management plan, shall, during such preparation, notify and seek comments from and offer to confer with:

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1. All governmental units that have regulatory or planning jurisdiction over wastewater or land use in that wastewater management plan area, or in any additional sewer service area identified or being considered for identification under N.J.A.C. 7:15- 5.16(a)6 or 5.18(c)4. Such governmental units shall include, but not be limited to: designated planning agencies, wastewater management planning agencies, county planning boards, municipal governing bodies and planning boards, sewerage authorities, municipal authorities, joint meetings, the Passaic Valley Sewerage Commissioners, the Hackensack Meadowlands Development Commission, the Pinelands Commission, and the Delaware River Basin Commission, as appropriate.

2. All governmental units and public utilities, and all vendors of wastewater treatment systems or services under the "New Jersey Wastewater Treatment Privatization Act", N.J.S.A. 58:27-1 et seq., that:

i. Own, lease, operate, or maintain DTW that receive wastewater that arises within, or that is conveyed into or through, that wastewater management plan area, or in any additional sewer service area identified or being considered for identification under N.J.A.C. 7:15-5.16(a)6 or 5.18(c)4;

ii. Are parties to contracts for such DTW;

iii. Are permittees or co-permittees under N.J.A.C. 7:14A for such DTW; or

iv. Are projected in a draft or previously adopted wastewater management plan for that wastewater management plan area to perform activities listed in (a)2 i, ii or iii above.

3. The criteria in (a)2 i through iv above are exclusive of collection facilities for sewage that arises only on nonresidential property owned or leased by the governmental unit, public utility, or vendor.

(b) Under N.J.A.C. 7:15-3.4(d)3 and (g)4, written statements of consent for wastewater management plans shall generally be requested from, at a minimum, the governing bodies of each of the governmental entities and sewerage agencies that are required to be notified under (a) above.

(c) Wastewater management plans relating to the New Jersey Coastal Zone, the Hackensack Meadowlands District, the Pinelands Area, or the Pinelands National Reserve are also subject to the requirements of N.J.A.C. 7:15-3.6 or 3.7, as appropriate.

7:15-5.23 Schedule for submission of wastewater management plans

(a) Each wastewater management planning agency shall periodically prepare and submit wastewater management plans as requests to amend areawide WQM plans under N.J.A.C. 7:15-3.4. The first such submission shall be made in accordance with the schedule established in (b) through (e) below. Thereafter, an updated wastewater

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management plan shall be submitted at least once every six years from the date of the previous submission. Alternative schedules for submission of wastewater management plans may be established and changed under (f) or (g) below. Early submissions of wastewater management plans may also be made under (j) below.

(b) The following governmental units shall submit wastewater management plans by October 2, 1990 or within 12 months after the creation of the governmental unit, whichever is later, if such units have wastewater management plan responsibility under N.J.A.C. 7:15-5.4 through 5.7:

1. Designated planning agencies;
2. The Passaic Valley Sewerage Commissioners;
3. County utilities authorities;
4. Regional authorities; and
5. Multi-county joint meetings.

(c) Other sewerage authorities, municipal authorities, joint meetings, and municipalities that have wastewater management plan responsibility under N.J.A.C. 7:15-5.6 through 5.8 shall submit wastewater management plans during the period specified in the following table or within 12 months of the creation of the governmental unit, whichever is later:

Table I

Wastewater Management Plan Submission Schedule

Location of Wastewater Management Plan	Period of Submission
Burlington, Cape May, Middlesex, Ocean, Passaic, and Union Counties	October 3, 1990 through October 2, 1991
Atlantic, Morris, Salem, Sussex, and Warren Counties	October 3, 1991 through October 2, 1992
Bergen, Essex, Gloucester, Hunterdon, and Monmouth Counties	October 3, 1992 through October 2, 1993
Camden, Cumberland, Hudson, Mercer, and Somerset Counties	October 3, 1993 through October 2, 1994

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(d) Notwithstanding the schedule in (b) and (c) above, if an entire wastewater management plan area is already addressed by one or more wastewater management plans identified in N.J.A.C. 7:15-5.2, the governmental unit that has wastewater management plan responsibility for that wastewater management plan area under N.J.A.C. 7:15-5.4 through 5.8 shall submit an updated wastewater management plan for that wastewater management plan area between October 3, 1994 through October 2, 1995, or within 12 months of the creation of the governmental unit, whichever is later.

(e) Each WQM plan amendment or WQM plan revision that makes or changes alternative assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.9 shall include a schedule for submission of the corresponding wastewater management plan. This requirement does not apply to automatic expansions of wastewater management plan areas under N.J.A.C. 7:15-5.11(b).

(f) Alternative schedules for submission of wastewater management plans, different from those set forth under (a) through (e) above, shall be established and subsequently changed only if such alternative schedules or changes thereto are adopted as amendments to areawide WQM plans under N.J.A.C. 7:15-3.4, or as revisions to WQM plans under (g) below. Amendments or revisions that change alternative schedules may establish different alternative schedules, or, where reasonable, may restore schedules set forth under (a) through (e) above. Reasons that may justify the establishment or changing of alternative schedules include, but are not limited to:

1. Coordination of wastewater management plans with the preparation of municipal or county master plans under N.J.S.A. 40:55D-28 or N.J.S.A. 40:27- 2, or with reexaminations under N.J.S.A. 40:55D-89;
2. Coordination between adjacent wastewater management plan areas;
3. The need for additional time to perform specific examinations required under N.J.A.C. 7:15-5.18(a)2;
4. Coordination of wastewater management plans with the schedules of the NJPDES programs or of financial assistance programs under N.J.A.C. 7:22; and
5. The need to stagger the submission of wastewater management plans so that the Department can better manage its corresponding workload under N.J.A.C. 7:15-3.4.

(g) With the consent of the Department and the wastewater management planning agency, an alternative schedule for submission of wastewater management plans may be established and changed by a WQM plan revision under N.J.A.C. 7:15-3.5, rather than by a WQM plan amendment under N.J.A.C. 7:15-3.4.

(h) The Department may at any time request a wastewater management planning agency to submit written reports on the progress that such agency is making in meeting its

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wastewater management plan responsibility. Such agency shall submit such reports to the ORP within 90 calendar days of receiving such requests.

(i) Each wastewater management plan that updates one or more already existing wastewater management plan shall comply with N.J.A.C. 7:15-5.20 and include:

1. Updated maps and descriptions of the then existing wastewater jurisdictions, service areas, and facilities under N.J.A.C. 7:15-5.16;
2. Updated maps of environmental features under N.J.A.C. 7:15-5.17; and
3. Updated maps and descriptions of future wastewater jurisdictions, service areas, and facilities under N.J.A.C. 7:15-5.18, with due regard to changes in factors discussed in that section, such as adoption of new or amended zoning ordinances or municipal or county master plans.

(j) At the written request of a person who seeks a WQM plan amendment that requires a wastewater management plan under N.J.A.C. 7:15-5.1(a), a wastewater management planning agency may submit a wastewater management plan at any time prior to the period when such submission is required under (b) through (g) above. The establishment of an alternative schedule under (f) or (g) above is not required for such early submission.

SUBCHAPTER 6: WATER QUALITY LIMITED SURFACE WATERS

7:15-6.1 Purpose and scope

This subchapter describes the process which is used to identify water quality limited segments or waterbodies, identify those segments or waterbodies requiring the development of TMDLs or other actions and to set the priorities for development of the necessary TMDLs or other actions. The procedures in this subchapter and the adoption of waterbody segment lists shall supersede any existing listing of water quality limited segments or effluent limited segments in areawide WQM Plans and any other Departmental documents other than the Statewide WQM Plan.

7:15-6.2 Identification of water quality limited segments

(a) The Department shall identify those water quality limited segments where it is known that the water quality does not meet or is not expected to meet the applicable surface water quality standards in N.J.A.C. 7:9B, or surface water quality standards adopted by the USEPA for the State, subsequent to imposition and implementation of the controls in (a)1 through 4 below. Where the segments are known to not meet the applicable surface water quality standards, the segments shall be listed until the controls of (a)1 through 4

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below and the implementation of a TMDL or other action result in the segment meeting the applicable surface water quality standards:

1. Technology based effluent limitations required by Sections 301(b), 306, 307, or other sections of the Federal Act and established pursuant to N.J.A.C. 7:14A-13.2, 13.3 and 13.4;
2. Effluent standards, limitations or prohibitions that are more stringent than technology based effluent limitations, as required by local, State or Federal law, regulation or treaty, including effluent limitations imposed in accordance with N.J.A.C. 7:14A-12, effluent limitations imposed in accordance with N.J.A.C. 7:14A-13.2 and 13.3 which are based on water quality management plans adopted in accordance with N.J.A.C. 7:15, or State minimum treatment requirements and effluent standards in N.J.A.C. 7:14A-12 and N.J.A.C. 7:9-5;
3. Other pollution control requirements, such as best management practices in accordance with N.J.A.C. 7:14A-6.2(b)1, required by local, State or Federal law, regulation or treaty; and
4. Site specific allocations and site specific water quality based effluent limitations (in the absence of a TMDL) for any pollutant or pollutant parameter for which water quality based effluent limitations are required to be developed in accordance with N.J.A.C. 7:14A-13.5.

(b) The Department shall identify those water quality limited segments for which controls on thermal discharges under Section 301 of the Federal Act, or site specific requirements such as provided for in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.14(c)11 are not stringent enough to ensure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(c) The Department shall prepare a list of those water quality limited segments identified in accordance with (a) and (b) above. The list shall identify the boundaries of the water quality limited segments and the pollutants or pollutant parameters causing or expected to cause violations of the surface water quality standards in N.J.A.C. 7:9B. The list may include information regarding proposed approaches for the development of TMDL models for the identified water quality limited segments. The list shall include, to the extent known through information available to the Department, potential causes or sources of the violation of surface water quality standards, including specific or general categories of pollutant sources.

(d) The Department shall use the most recently listing of WQLS adopted by the Department and approved by the USEPA as the basis for a new WQLS listing, and such WQLS shall continue to be considered WQLS unless specifically deleted with data and

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justification as described in (e) below. The Department may list new WQLS, also with data and justification as described in (e) below.

(e) The Department may utilize all or any of the following data sources in preparing the list described in (c) above:

1. Ambient surface water quality and flow data collected by an applicant or permittee in accordance with a QA/QC project work plan approved under N.J.A.C. 7:14A-2.12, or for which appropriate QA/QC procedures existed, were followed and can be verified;
2. Ambient surface water quality and flow data collected by the Department or by another government agency for which appropriate QA/QC procedures existed, were followed and can be verified;
3. Effluent quality and flow data, and permitted effluent quality and flow data, such as those submitted to the Department in compliance with monitoring or site-specific water quality study requirements of the NJPDES rules at N.J.A.C. 7:14A;
4. Any additional data which the Department may identify as applicable pursuant to 40 CFR 130.7(b)(5); or
5. Other data not included in (e)1 through 4 above, for the purpose of supporting conclusions otherwise based on data from (e)1 through 4 above or for the purpose of identifying segments pursuant to (f) below for which further investigation is appropriate prior to determining whether or not the segment is a WQLS.

(f) The Department may identify and include on the list described in (c) above additional waterbody segments for which data regarding impairment or non-attainment of surface water quality standards are incomplete or inconclusive but for which data are sufficient to warrant further investigation.

7:15-6.3 Ranking of water quality limited segments

(a) The Department shall rank all water quality limited segments listed pursuant to N.J.A.C. 7:15-6.2(c). The ranking system shall incorporate the following considerations:

1. The relative number, locations, NJPDES permit expiration dates, and types of existing and anticipated point source discharges, and immediate NJPDES permit program needs such as wasteload allocations (WLAs) for permits;

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2. The severity of the water quality impairment or potential impairment of the waterbody segment, including risks to human health and aquatic life, vulnerability or fragility of a particular segment as an aquatic habitat, or water pollution problems identified by the Department;

3. The extent to which water quality impairment or the threat of impairment is expected or projected to increase in the absence of further discharge controls;

4. The extent and types of existing and anticipated nonpoint discharges, including immediate nonpoint source control program needs for individual or aggregate load allocations (LAs) regarding such sources, which may support the implementation of best management practices (BMPs); and

5. The designated uses of the waterbody segment established in N.J.A.C. 7:9B-1 as well as existing uses, degree of public interest and support or the recreational, economic, and aesthetic importance of a particular waterbody segment;

6. The quality, quantity and extent of available data in determining whether a waterbody segment shall be included on the list; and

7. For purposes of this subchapter and N.J.A.C. 7:15-7, stormwater point sources shall, in general, be considered as nonpoint sources. However, a stormwater point source may be treated as a point source if:

i. There is a continuous, or regular and frequent, discharge from that stormwater point source in non-storm periods (more than three days after precipitation or the melting of frozen precipitation ends);

ii. The Department determines that the discharge in non-storm periods is a significant contributor of pollutants. In making this determination, the Department may consider the location of the discharge with respect to waters of the State, the size and frequency of the discharge, the quantity and nature of pollutants being discharged, the quality of the receiving waters, and other relevant factors; and

iii. The Department determines that the development of numeric effluent limitations may be feasible for the discharge.

(b) The Department shall identify those waterbody segments targeted for development of a TMDL during the two years subsequent to the adoption of the list in accordance with N.J.A.C. 7:15-6.4.

7:15-6.4 Public process

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(a) The waterbody segment list described in N.J.A.C. 7:15-6.2 and N.J.A.C. 7:15-6.3, including the relative rank of each water quality limited segment, shall be adopted as an amendment to the Statewide WQM Plan in accordance with (c) through (g) below.

(b) The Department may also adopt as an amendment to the Statewide WQM Plan in accordance with (c) through (g) below, or otherwise publish for public comment, sublists of waterbody segments which fall into the following categories:

1. Waterbody segments for which data will be collected during the two years following adoption of the list, including the parameters to be addressed;
2. Waterbody segments for which a TMDL will be developed during the two years following adoption of the list, including the parameters to be addressed and the proposed approach for the TMDL model to be developed;
3. Waterbody segments for which NJPDES discharge permits based on a TMDL will be developed during the two years following adoption of the list, including the parameters to be addressed; and
4. Waterbody segments for which the TMDL/WLA/LA process, including issuance of NJPDES discharge permits as appropriate, has been completed since the last adoption of the waterbody segment list. This component of the list shall specify the parameters that have been addressed.

(c) The lists described in (a) and (b) above shall be subject to public comment. The Department shall provide public notice and a summary of the listed waterbody segments in the New Jersey Register and in a daily or weekly newspaper of general circulation within the affected area(s). The Department shall send copies of the public notice to the applicable designated planning agency or agencies, if any, the USEPA, adjacent affected states where appropriate, any individual sources of pollutants or use impairments included within the WQLS list and applicable agencies or individuals identified in accordance with N.J.A.C. 7:14A-15.10(e). The Department shall provide documentation to the Regional Administrator of the USEPA in accordance with 40 CFR 130.7(b)6.

(d) Public notice shall include the following:

1. The name and address of the Bureau or Office in the Department from which the complete listing may be obtained and to which comments may be addressed;
2. A summary of listed waterbody segments and relevant parameters to be addressed in the TMDLs; and

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3. A brief description of the procedures for comment on the waterbody segments lists, the parameters to be addressed in the TMDL, and the proposed TMDL approach.

(e) Interested persons may submit written comments to the Department within 30 days of the date of the public notice. Interested persons may request that the public comment period be extended up to 30 additional days. Requests for extensions to the comment period shall be submitted in writing to the Department within 30 days of the date of the public notice and specify a rationale for the extension. If the Department determines that there is sufficient cause for an extension based upon the request, it may grant the extension for 30 days or any shorter period as it deems appropriate.

(f) Interested persons may request that the Department hold a non-adversarial public hearing. Such requests shall be submitted in writing to the Department within 30 days of the date of the public notice and specify a rationale for the hearing. If the Department determines there is significant public interest in holding a public hearing, then a public hearing will be held. A public notice providing at least 30 days notice of the hearing will be published in a daily or weekly newspaper of general circulation within the affected area and mailed to the applicable designated planning agency or agencies, if any, as well as to any person who submitted comments in response to the original public notice. The public comment period shall automatically be extended to 15 days after the public hearing unless a later date is specified in the public notice.

(g) The Commissioner shall render a decision on the proposed list(s) which shall be deemed final agency action. The Commissioner shall either:

1. Adopt the list(s) as proposed, in part or in whole.
2. Adopt the proposed list(s) with minor changes which do not effectively destroy the value of the public notice; or
3. Disapprove the proposed list(s), in part or in whole.

SUBCHAPTER 7: TOTAL MAXIMUM DAILY LOADS

7:15-7.1 Purpose and scope

This subchapter sets forth two general approaches for the determination of total maximum daily loads (TMDLs) for water quality limited water segments and for other waterbodies pursuant to N.J.A.C. 7:15-7.2(b). A TMDL represents the assimilative capacity of a waterbody or waterbody segment for a single pollutant or pollutant parameter. The TMDL includes the sum of individual wasteload allocations, load allocations, and allocations as applicable to reserve capacity and margin of safety. A TMDL may be developed using either of two general modeling approaches -- the basic TMDL approach (see N.J.A.C. 7:15-7.4) or the complex TMDL approach (see N.J.A.C.

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7:15-7.5). Both TMDL approaches may be applied on a "watershed" basis, where the TMDL is developed considering all significant point and nonpoint sources of the pollutant parameter of interest within an entire WQLS, multiple linked waterbody segments, or entire watershed. Both TMDL approaches may also be applied on a "site-specific" basis, where the TMDL is developed for a specific reach or location of a WQLS or other waterbody affected by a specific, NJPDES-permitted point source discharge and the analysis is limited to the impact of point and nonpoint sources that are located in the immediate vicinity of that point source. A "basic TMDL" is a TMDL that does not include an analysis of the fate of a pollutant parameter in a WQLS or waterbody. A "complex TMDL" is a TMDL that includes an analysis of the fate and transport of a pollutant parameter in a WQLS or waterbody.

7:15-7.2 General information and public process

(a) TMDLs shall be established for each water quality limited segment identified by the Department in accordance with N.J.A.C. 7:15-6.2(a) and (b). The TMDL process shall be used to ensure that surface water quality standards are attained and maintained. Each TMDL may account for seasonal variations to effluent limitations to the extent allowed under N.J.A.C. 7:14A-13.9 and shall include a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(b) TMDLs may also be established for waterbody segments which have not been identified in accordance with N.J.A.C. 7:15-6.2.

(c) A separate TMDL shall be established for each pollutant parameter identified in accordance with N.J.A.C. 7:15-6.2(c), including thermal loadings, and may be established for other pollutant parameters where these parameters are identified through the public process in (f) below or through supplemental public notice after the TMDL process has commenced. However, more than one TMDL can be developed for a WQLS using a consolidated public process and TMDL modeling approach. Each TMDL shall be developed and approved in accordance with the provisions of this subchapter.

(d) (Reserved)

(e) Any TMDL established for a waterbody segment which includes waters of different (multiple) classifications shall be developed in such a way as to fully protect the designated and existing uses of any waters of higher classification. Any TMDL established for a stream segment which affects or potentially affects a downstream waterbody segment containing waters of a higher classification and/or waters for which more stringent criteria may apply shall be developed in such a way as to fully protect the designated and existing uses of the downstream waterbody segment. Any TMDL established for a waterbody segment which affects or potentially affects the waters of another state shall be developed in such a way as to fully protect the designated and existing uses of the waters of the adjacent state at the New Jersey border. Any TMDL established for waters under the jurisdiction of the Delaware River Basin Commission or

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the Interstate Environmental Commission shall be established in accordance with the prevailing Water Quality Regulations of the respective agency or in accordance with N.J.A.C. 7:9B, whichever is more stringent.

(f) A public process shall be initiated prior to the development of each TMDL which includes the following components:

1. An informal process to identify parties with an interest in the waterbody segment. Where the TMDL will be developed on a watershed basis, a public advisory committee, with subcommittees as appropriate, shall be formed to represent affected parties and to provide input to the Department on policy issues affecting the development of the TMDL, including specific water quality goals to the extent they are adopted under provisions of the Surface Water Quality Standards at N.J.A.C. 7:9B regarding the development of specific uses, criteria or antidegradation and mixing zone policies for the waterbody segment. For TMDLs developed on a site specific basis, an opportunity for written public comment on the same issues shall be substituted for a Public Advisory Committee process;
2. Public notice of the water quality goals for the waterbody segment, the parameters of interest for which a TMDL will be developed, the spatial boundaries of the TMDL, and the analytical approach which will be utilized for the TMDL development; and
3. An informational public meeting shall be scheduled for each waterbody segment or segments where one or more TMDL is planned to be developed on a watershed basis. The Department may also hold such an informational public meeting where a TMDL is planned to be developed on a site-specific basis where sufficient public interest exists.

(g) Each TMDL shall be proposed by the Department as an amendment to the appropriate areawide WQM plan(s) in accordance with N.J.A.C. 7:15-3.4(g).

(h) Where feasible, the TMDL proposal shall include:

1. The various management options and alternatives which will ensure that the surface water quality standards will be attained, including the use of BMPs, the trading of allocations under N.J.A.C. 7:15-7.6(d)3, or the use of water conservation measures;
2. A listing of all pollutant sources discharging into the waterbody segment for which WLAs or individual LAs were developed, and all nonpoint source pollutant categories for which aggregate LAs were developed;
3. An analysis of the margin of safety and/or reserve capacity which has been assigned for each parameter;

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4. Calculations of WLAs/LAs developed from the TMDL;
 5. Water quality based effluent limitations developed in accordance with N.J.A.C. 7:14A-13.6;
 6. Any site specific criteria developed in accordance with N.J.A.C. 7:9B;
 7. Any translator mechanisms necessary to convert a criterion expressed as one fraction of a parameter (such as dissolved metal) into another fraction of the same parameter (such as total recoverable metal); and
 8. Any modifications to water quality based effluent limitations developed in accordance with N.J.A.C. 7:9B-1.8 or 1.9 or variances determined in accordance with N.J.A.C. 7:14A-11.
- (i) Public notice of the TMDL shall be provided in the New Jersey Register and a daily or weekly newspaper within the affected area prior to the public hearing. Each affected point source discharger with an individual NJPDES-Discharge to Surface Water permit approved under N.J.A.C. 7:14A, each municipality within the TMDL project area, and each discharger otherwise identified in the WQLS list adopted pursuant to N.J.A.C. 7:15-6 as a potential contributor of the pollutant parameter for which the TMDL was developed, within an affected area shall be notified by a mailing of the public notice. In addition to any information required by N.J.A.C. 7:15-3.4(g), the public notice shall include the information listed below:
1. The name and address of the Department contact to which comments may be addressed and to which a written request may be made for additional information;
 2. The name, location, and NJPDES permit number (where applicable) of each discharger receiving a WLA or individual LA in the TMDL;
 3. A summary of the TMDL which includes the preliminary allocation assigned to each pollutant source or to a category or other group of pollutant sources;
 4. A brief description of the procedures for comment on the TMDL;
 5. The time and place of any public hearing to be conducted in accordance with N.J.A.C. 7:15-3.4; and
 6. The procedures for obtaining a copy of the detailed TMDL report, including all calculations and the various management options and alternatives which were considered for the waterbody segment.

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(j) The Department, at any time, may utilize the services of a mediator to facilitate reaching a formal agreement on the TMDL among the interested parties.

(k) All TMDLs established in accordance with (a), or (c) above shall be submitted in draft to the USEPA for review and approval at least 30 days prior to the anticipated date of adoption. The Department shall submit the adopted TMDL to the USEPA, which shall have up to 30 days from the date of receipt to render a final decision. Estimated TMDLs (as defined by 40 C.F.R. 130.7(e)) established in accordance with (b) above shall be submitted to USEPA for comment but may be adopted by the Department without USEPA approval.

(l) TMDLs, WLAs, LAs, water quality based effluent limitations, and listings of water quality limited segments established by the USEPA pursuant to 40 CFR 130.7(d) shall be considered to be part of the appropriate areawide WQM plans, but the Governor or Governor's designee may adopt more stringent requirements in such plans pursuant to the procedures in N.J.A.C. 7:15-3.4 (g).

(m) TMDLs, WLAs, LAs, water quality based effluent limitations, and listings of water quality limited segments established by the Delaware River Basin Commission or Interstate Sanitation Commission shall be considered to be part of the appropriate areawide WQM plans, but the Governor or Governor's designee may adopt more stringent requirements in such plans pursuant to the procedures in N.J.A.C. 7:15-3.4 (g).

(n) (Reserved)

(o) TMDLs may be developed by a permittee, applicant for a permit, group of permittees or applicants, watershed associations, or other interested parties regardless of whether the waterbody segment has been identified in accordance with N.J.A.C. 7:15-6.3(b), if the conditions listed in (o)1 through 3 below are satisfied:

1. The proposed TMDL shall conform to all applicable general and specific requirements of this subchapter. Any ambient studies or water quality models utilized in the development of the proposed TMDL shall conform to the requirements of N.J.A.C. 7:14A-2.12;

2. The entity assuming responsibility for TMDL development shall develop and submit to the Department for approval a detailed plan for compliance with the public participation requirements of the TMDL development in accordance with (f) above and the technical requirements of the TMDL development in accordance with N.J.A.C. 7:15-7.3 through 7.7. The plan shall be subject to approval by the Department prior to initiation of any work on the TMDL. Minor project work plan modifications (those that do not substantively change, for example, the scope, geographic coverage, model, monitoring protocol, completion date or public process of the TMDL project) may be approved verbally, with written confirmation, by the Department; and

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3. The public process described in (f) through (i) above has not otherwise been initiated.

(p) All TMDLs and associated WLAs and LAs shall comply with all antidegradation, mixing zone and intermittent stream requirements in accordance with N.J.A.C. 7:9B.

(q) All effluent limitations derived from WLAs shall comply with all antibacksliding requirements in accordance with N.J.A.C. 7:14A-13.19.

(r) Nothing in this section shall affect the Department's authority to require a point source discharger to undertake site specific studies in accordance with N.J.A.C. 7:14A.

7:15-7.3 General technical requirements for TMDL development

(a) TMDLs may be established utilizing either a basic TMDL model approach or a complex TMDL model approach. Where a basic TMDL model has been established and a complex TMDL model is subsequently established for the same parameter and the same waterbody segment, WLAs and LAs shall be established using the complex TMDL model and shall replace the WLAs and LAs established using the basic TMDL model. WLAs and LAs established as the result of one complex TMDL model may also replace the WLAs and LAs established using another complex TMDL model where the Department determines that the new WLAs and LAs will result in improved water quality or that the TMDL model better reflects the actual attributes of the waterbody segment.

(b) The spatial boundaries for each TMDL shall be clearly established and shall begin and end at a waterbody segment boundary as defined by the USEPA stream segments database, except where the Department determines on a site specific basis that an alternate spatial boundary is appropriate. TMDLs for adjacent segments may be combined to provide a comprehensive TMDL for all of the affected segments.

(c) The ambient and inflow water quality concentrations for a TMDL model shall be determined in accordance with N.J.A.C. 7:14A, except when the Department determines on the basis of site specific considerations that the data input values should be modified to adequately address the surface water quality standards. The model input concentrations for a statistical model shall be determined from the statistical distribution of the data collected for each parameter in accordance with N.J.A.C. 7:14A.

(d) Except for statistical models, stream design flows for TMDLs shall be determined in accordance with N.J.A.C. 7:9B. For statistical models, the stream design flow may be determined from analysis of waterbody segment flow data in accordance with N.J.A.C. 7:14A-2.12 and shall take into consideration existing or potential impacts on water flows from upstream flow regulation facilities (such as reservoirs) and inter-watershed transfers of water or wastewater.

(e) As a default, maximum facility flows corresponding to the duration of the applicable criteria shall be determined statistically from effluent flow data whenever possible.

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When such flows cannot be determined, the applicable facility flows shall be determined in accordance with N.J.A.C. 7:14A-13.13. However, the Department may allow alternative flows to be used in the TMDL project, subject to comment through the public participation process in N.J.A.C. 7:15-7.2. Flow projections shall be for 20 years, utilizing the most current, available projection information from the relevant Areawide WQM Plan(s) unless the Department allows an alternative planning horizon for the TMDL project, subject to comment through the public participation process in N.J.A.C. 7:15-7.2.

7:15-7.4 Development of basic TMDLs

(a) A basic TMDL model may be established for waterbody segments when insufficient data are available to develop a complex TMDL model and the complexity of the waterbody segment and the wasteload inputs to the waterbody segment do not justify development of a complex TMDL model. A basic TMDL model includes all TMDL models where a fully calibrated and verified water quality model has not been developed for the parameter(s) of concern. A basic TMDL model may consist of but is not limited to a mass balance for the waterbody segment for appropriate parameter(s) of interest.

(b) The following restrictions apply to the development of a basic TMDL model:

1. A basic TMDL model may be established for small tidal waterbody segments where there are no overlapping discharge effects and the Department determines that a tidally averaged dispersion term adequately describes the hydrological characteristics of the waterbody segment; and
2. A basic TMDL model (using only a mass balance) shall not be established for any pollutant or pollutant parameter which has a substantial direct effect on the dissolved oxygen dynamics of the stream.

(c) Basic TMDL models eligible to use and using mass balance equations shall assume that each pollutant or pollutant parameter is conservative. The maximum quantity of instream water available for effluent mixing in non-tidal waters is limited to the inflow entering the waterbody segment within the spatial boundaries of the TMDL. Where water is withdrawn from upstream of an effluent discharge point and subsequently reintroduced to the same waterbody segment at a downstream location (the discharge point) as effluent flow, the general mass balance equation shall be modified to account for the withdrawal of flow and associated pollutant loading.

7:15-7.5 Development of complex TMDLs

(a) Complex TMDL models shall be established when the Department determines that a basic TMDL model is not sufficient to adequately describe instream processes or where the Department approves an interested party's request to develop a complex TMDL under

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N.J.A.C. 7:15-7.2. Complex TMDL models include among other approaches calibrated and verified models which address the specific fate processes applicable to the parameter(s) of interest. Complex TMDL models may be developed using a steady state approach or a statistical approach such as continuous simulation, Monte Carlo, or lognormal modeling procedures.

(b) A complex TMDL model consists of a water quality model that may include, but is not limited to, the following:

1. Hydrological modeling of the waterbody segment(s) resulting in a calibrated and verified model of the waterbody segment. The hydrological model shall conform to the requirements in N.J.A.C. 7:14A-2.12 unless the Department determines that an alternative model is appropriate for a specific waterbody segment;
2. Development of a fate model for the pollutant(s) of interest that includes chemical, physical, and biological processes;
3. Modeling of point source and/or nonpoint source inputs which includes both concentration and quantity of pollutants that are or may be input from point sources and nonpoint sources. The point source and nonpoint source inputs shall include permitted discharges, unpermitted discharges, and discharges with in accordance with site remediation decisions; and
4. A series of model simulations reflecting a range of management options that will result in attainment of the ambient criteria and any adopted water quality goals for the waterbody segment.

7:15-7.6 Development of wasteload allocations and load allocations

(a) (Reserved)

(b) The assimilative capacity as defined by the TMDL shall be allocated to a reserve capacity, a margin of safety, wasteload allocation (WLAs) for point sources of pollutants, and load allocation (LAs) for nonpoint sources of pollutants. The total of the allocations to a reserve capacity, margin of safety, all WLAs, and all LAs shall not exceed the TMDL or assimilative capacity of the receiving waterbody segment.

(c) Assimilative capacity available in one waterbody segment identified under N.J.A.C. 7:15-6.2 shall not be reallocated to a different waterbody segment unless both waterbody segments are addressed by a single TMDL model. However, WLAs and LAs for conventional and non-conventional parameters (as defined in N.J.A.C. 7:14A-1) addressed by the TMDL may be traded within the waterbody segment (or segments, where multiple segments are addressed by a single TMDL model) so long as the WLAs

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and LAs ensure that the surface water quality standards will be attained as required by the provisions of N.J.A.C. 7:15-7.2.

(d) The following items shall be evaluated and addressed in developing the WLAs and LAs:

1. A reserve capacity and margin of safety in accordance with N.J.A.C. 7:15-7.7. These values shall be established on a case specific basis and may have a value of zero or some positive amount. The amount of the margin of safety and any reserve capacity and a description of the process for determining the margin of safety and any reserve capacity for the specific waterbody or waterbody segment or segments shall be specifically included in the TMDL;
2. LAs for individual or aggregate nonpoint source inputs:
 - i. In the absence of sufficient ambient data to quantify nonpoint sources, a preliminary analysis of the potential impact of nonpoint source inputs on the receiving water may be completed. This analysis may consider potential effects due to land use patterns and/or the relative quantities of the particular pollutant that can be attributed to known point source inputs. As a result of this analysis the relative contribution believed to be due to nonpoint sources may be estimated. An allocation equal to this relative contribution may be allocated to the aggregated nonpoint source inputs for the particular pollutant. This allocation may be altered after collection of a sufficient quantity and quality of data to quantify nonpoint source contributions or the reductions in nonpoint source contributions caused by implementation of Best Management Practices; or
 - ii. If sufficient data have been collected to enable the water quality model to include a reliable and quantitative consideration of nonpoint source contributions, the initial LAs may be based upon the anticipated nonpoint source loading after the imposition of controls based on Best Management Practices for which quantifiable load reductions can be reliably projected, and that are scheduled and expected to be in place within five years of the adoption of the TMDL or an alternative schedule adopted in the TMDL, with appropriate monitoring to ensure that the loading reductions have been achieved;
 - iii. In either case under (d)2i and ii above, the impact of the LAs regarding the degradation of high quality waters, for any pollutant parameters, shall be considered.
3. For point source discharges, including point sources that do not require NJPDES permits or do not require the inclusion of effluent limitations within NJPDES permits and site remediation decisions, WLAs shall be consistent with the antidegradation requirements at N.J.A.C. 7:9B-1.5(d), the antibacksliding requirements at N.J.A.C. 7:14A-13.19, the results of a mixing zone analysis completed in accordance with N.J.A.C. 7:9B, and/or any applicable effluent standard. The preliminary wasteload and load allocations proposed through the TMDL process may be modified prior to final

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adoption of the TMDL/WLA/LA to account for pollutant trading among the various pollutant sources within the waterbodies addressed by the TMDL;

i. Unless the Department determines based on site specific information that an allocation is required, only those dischargers with confirmed presence of the pollutant parameter for which a TMDL is developed shall be considered for an allocation for that parameter;

ii. All dry weather discharges to each waterbody segment shall be considered for a WLA, except stormwater sources not considered as point sources in accordance with N.J.A.C. 7:15-6.3(a)7; and

iii. All pollutants discharged under a general permit with numeric limitations for the parameter of concern shall be considered as a part of the TMDL process and may receive an allocation.

4. At a minimum, the following general approaches shall be considered in the development of allocation options. Each option for the allocation of WLAs to individual point source inputs and of LAs for individual or aggregate nonpoint source inputs shall be addressed in the TMDL proposal prepared in accordance with N.J.A.C. 7:15-7.2.

Options may be applied across all categories of pollutant sources or for specific categories of pollutant sources (such as, but not limited to, major domestic treatment works, minor domestic treatment works, similar industrial categories, stormwater discharges). The options shall be examined in general, and then examined in detail only where they are found to be reasonably applicable to the specific TMDL:

i. Allocation of an equal effluent concentration to each source, for each pollutant or pollutant parameter;

ii. Allocation of an equal percent removal to each source, for each pollutant or pollutant parameter;

iii. Allocation of an equal effluent mass loading to each source, for each pollutant or pollutant parameter; and

iv. Minimization of the total treatment expenditure for the entire waterbody segment. This process may include trading of allocations among point source inputs and/or nonpoint source inputs of pollutants so long as the water quality standards will be attained throughout the waterbodies addressed by the TMDL and at the edge of the regulatory mixing zone for any single point source discharge.

(e) The WLAs or site specific allocations for any pollutants or pollutant parameters discharged into an intermittent stream shall require that all water quality standards be achieved pursuant to N.J.A.C. 7:9B-1.5(c)3.

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(f) The WLAs or site specific allocations for any pollutants or pollutant parameters discharged into or upstream of a lake, pond, impoundment, or reservoir, except for impoundments specifically constructed as a unit of a treatment works or storm water management basin, shall ensure compliance with the mixing zone rules at N.J.A.C. 7:9B-1.5(h).

(g) When a TMDL and the associated WLAs/LAs have been developed for a waterbody segment, a site specific allocation shall also be determined for each pollutant addressed by the TMDL that is discharged by each point source requiring a WLA and NJPDES permit. This site specific allocation shall ensure that the surface water quality standards shall be attained at the edge of the regulatory mixing zone as required by N.J.A.C. 7:9B-1.5(c)4. The Department shall compare the site specific allocation to the WLA developed in accordance with the TMDL procedure. The more stringent of the two allocations shall be used to evaluate the need for more stringent effluent limitations than currently contained in the NJPDES permit in accordance with N.J.A.C. 7:14A-13.

(h) Seasonal WLAs or site specific allocations may be developed in accordance with the following conditions:

1. Each seasonal WLA shall be derived from a seasonal TMDL;
2. Seasonal WLAs or site specific allocations may be developed for the following parameters and groups of parameters:
 - i. Parameters substantially affecting dissolved oxygen dynamics in the receiving stream;
 - ii. Nutrients, including phosphorus and nitrogen; and
 - iii. Ammonia-N limitations to protect against toxic effects in the receiving water.
3. A dissolved oxygen study may be required which addresses any effects or potential effects on designated water uses or actual adverse biological impacts (including their impacts on waterbody ecosystems and water supply systems) in the target waterbody segment and other waterbody segments (see N.J.A.C. 7:14A-2.12);
4. A nutrient study may be required which addresses any effects or potential effects on nutrient cycling and potential or actual adverse biological impacts (including their impacts on waterbody ecosystems and water supply systems) in the target waterbody segment and other waterbody segments, during any seasons (that is, regarding immediate and delayed impacts) (see N.J.A.C. 7:14A-13.9);
5. Except as specified in (h)6 below, seasonal WLAs or site specific allocations may be developed for a maximum of two seasons in each year

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6. Seasonal WLAs or site specific allocations may be developed for more than two seasons as necessary, when:

i. The United States Geological Survey provides a reliable estimate of applicable stream design flows from a gauging station located in the vicinity of the discharge location or where sufficient data are available to establish a correlation between similar drainage basins; and

ii. The permittee provides additional seasonal water quality studies.

(i) WLAs and LAs, as appropriate, for thermal discharges shall be developed based on the provisions of N.J.A.C. 7:9B-1.14(c)11 according to the following procedures and in accordance with 40 CFR 130.7(c)(2):

1. When a thermal TMDL has been established, including a seasonal thermal TMDL as appropriate, WLAs and LAs based on the TMDL shall be established so as to ensure that the thermal component of the discharges affected by the TMDL is controlled to the extent necessary to ensure that the TMDL shall be achieved; and

2. All thermal WLAs shall be developed so as to ensure that the surface water quality standards, including antidegradation policies, shall be achieved at the boundary of any established regulatory mixing zone (see N.J.A.C. 7:9B-1.5(h)).

(j) When a TMDL has not been established for a waterbody segment, the Department may establish a site specific allocation and water quality based effluent limitation in accordance with N.J.A.C. 7:14A-13.6.

7:15-7.7 Margin of safety and reserve capacity

(a) A margin of safety shall be included in the TMDL (either as an internal factor of the TMDL modeling approach or as an explicit, separate factor, as appropriate) that accounts for the following:

1. The level of uncertainty in the available data and analysis, including:

i. The amount and quality of ambient water quality and hydrologic data;

ii. The amount and quality of point source input data;

iii. The amount and quality of nonpoint source input data;

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- iv. The number of pollutant discharges;
 - v. The potential overlapping impacts of discharges;
 - vi. The availability of a complex TMDL and associated modeling; and
 - vii. The inclusion in the model of conservation assumptions or statistical treatments that satisfactorily address the need for a margin of safety to address the factors in (a)1i through vi above without the addition of a separate, explicit margin of safety.
- 2. The type of parameter for which limits are to be developed, including the persistence of the pollutant or the potential for the pollutant to bioaccumulate;
 - 3. The reliability of potential/existing treatment systems, including the control of nonpoint sources and unpermitted point sources;
 - 4. The identified and adopted water quality goals for the waterbody segment; and
 - 5. The presence of high quality waters.

(b) A reserve capacity (with a value of zero or greater) shall be included in the TMDL where appropriate to account for the potential for regional growth and/or new or expanded point or nonpoint source contributions, including remediation activities where such activities constitute a new contribution of pollutants to the waterbody segment, and also for anticipated flow reductions in the waterbody segment due to flow regulation, depletive or consumptive uses, and inter-watershed transfers of water or wastewater. Areawide WQM plans shall be used as one source of information for determining a reserve capacity.

(c) A margin of safety and, where appropriate, a reserve capacity shall be assigned to each waterbody segment as an integral part of the TMDL process. The amount of the margin of safety and any reserve capacity and a description of the process for determining the margin of safety and any reserve capacity for the specific waterbody or waterbody segment or segments shall be specifically included in the TMDL.

NOTE: THE FOLLOWING SUBCHAPTER WAS HELD INVALID. SEE NOTICE OF RULE INVALIDATION AT 34 N.J.R. 3641(B).

SUBCHAPTER 8. DISCHARGES TO GROUND WATER OF LESS THAN 20,000 GALLONS PER DAY AND LESS THAN 2,000 GALLONS PER DAY

7:15-8.1 PURPOSE AND SCOPE

(a) This subchapter withdraws and redesignates the wastewater service area designations identified in areawide WQM Plans for subsurface sewage disposal systems with planning

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flows of less than 20,000 gallons per day (gpd) and less than 2,000 gpd, including individual subsurface sewage disposal systems.

7:15-8.2 Withdrawal of general service area designations

(a) Effective March 20, 2001, all areas designated in an adopted areawide WQM plan to be served by subsurface sewage disposal systems with planning flows less than 20,000 gpd and less than 2,000 gpd are deemed withdrawn.

(b) For those areas for which the designations are withdrawn under this section, a revised discharge to ground water general wastewater service area designation for planned flows of less than 2,000 gpd is established. The following wastewater facilities or treatment works with discharges to ground water may serve the identified projects and activities within this service area designation and will not require an areawide WQM plan amendment:

1. Wastewater facilities or treatment works with discharges to ground water with a daily maximum design flow of less than 2,000 gallons serving non-residential development; or

2. Individual or other subsurface sewage disposal systems serving residential development or subdivisions resulting in a total of fewer than six dwelling units.

i. For the purpose of determining the total number of dwelling units, previous development shall be taken into account. Previous development includes development constructed after March 20, 2001. Previous development to be taken into account in determining if the development qualifies includes:

(1) The construction of any residential development on contiguous parcels of property, regardless of present ownership, where there is a proposed sharing of infrastructure constructed to serve those parcels including, but not limited to, roads, utility lines, drainage systems, open spaces or septic drainage fields;

(2) The construction of any residential development on contiguous parcels of property which were under common ownership on or after March 20, 2001, regardless of present ownership, or any subdivision or resubdivision of a parcel of land which occurred after March 20, 2001;

(3) The construction of any residential development on contiguous parcels of property where there is some shared pecuniary, possessory or other substantial common interest by one or more individuals in the units; and

(4) The addition of one or more dwelling units where such addition, when combined with the dwelling units constructed after March 20, 2001, results in a total exceeding six dwelling units.

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(c) The following wastewater facilities or treatment works with discharges to ground water and the properties served by these discharges shall be deemed exempt at the current permitted flow, where applicable, as of March 20, 2001 provided that the activities are consistent with the adopted areawide WQM plan that was in effect on March 19, 2001. For purposes of this subsection, "permitted" means NJPDES permit, Treatment Works Approval or approval by the administrative authority pursuant to N.J.A.C. 7:9A.

1. Wastewater facilities with a discharge to ground water for which the Department has received an administratively complete application for or has issued a NJPDES permit pursuant N.J.A.C. 7:14A prior to March 20, 2001;

2. Treatment works with a discharge to ground water for which the Department has received an administratively complete application for or has issued a TWA pursuant to N.J.A.C. 7:14A prior to March 20, 2001;

3. Wastewater facilities with a discharge to groundwater that have obtained the approval of the administrative authority under N.J.A.C. 7:9A;

4. Wastewater facilities with a discharge to ground water including individual and other subsurface sewage disposal systems, associated with a development for which one of the following forms of currently valid approval was issued pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) prior to March 20, 2001.

i. Minor subdivision;

ii. Minor site plan;

iii. Preliminary or final site plan; or

iv. Preliminary or final subdivision approval; or

5. Existing wastewater facilities with a discharge to ground water for which no approval is required. For example, a dwelling unit utilizing a cesspool or a septic system which was installed prior to the existence of standards promulgated under the Realty Improvement Sewerage and Facilities Act (1954), N.J.S.A. 58:11-23 et seq.

(d) For areas addressed by this section, any wastewater facility or treatment works with a discharge to ground water shall be deemed to be inconsistent, unless exempt as provided in (b) and (c) above.

(e) An application to change a wastewater service area designated pursuant to (b) above shall be processed as a wastewater management plan or amendments thereto, unless the project or activity is deemed consistent with the areawide WQM plan under N.J.A.C. 7:15-3.2.

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(f) In the event the implementation of this subchapter conflicts with other provisions of this chapter, the provisions of this subchapter control.

SUBCHAPTER 9. WATERSHED MANAGEMENT GRANTS

7:15-9.1 Scope and purpose

(a) The purpose of this subchapter is to set forth the rules governing grants from the Watershed Management Fund to assist watershed management groups in the funding of watershed management activities in accordance with the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq. This subchapter establishes policies and procedures for the award and distribution of Watershed Management Fund monies.

7:15-9.2 Project Priority System and Project Priority Award List

(a) Each year the Department shall develop a Project Priority System that establishes the project category priorities for watershed management grants for that year.

(b) The Department shall publish a notice of availability of watershed management grants in the New Jersey Register, identifying the Project Priority System, application requirements, and deadline for submittal of applications. This notice shall additionally be posted on the Division of Watershed Management's web site (www.state.nj.us/dep/watershedmgt).

(c) Unless otherwise specified in the notice of availability, the Department shall, in general, give priority to the following watershed management activities:

1. The initial establishment of watershed associations and/or stakeholder groups to support watershed management planning activities;
2. Watershed management activities identified as a priority action in a adopted Watershed Management Area (WMA) Plan;
3. Watershed management activities identified by a PAC as a priority action prior to adoption of a WMA Plan;
4. Watershed management activities that are designed to address documented water resource problems or issues of particular concern in a subwatershed, watershed or watershed management area, as indicated in the Statewide Water Quality Inventory Report prepared by the Department pursuant to Section 305(b) of the Federal Clean Water Act (33 U.S.C. §1315(b)), or a characterization and assessment of water quality and water quantity report prepared by or for the Department, or other Department-approved sources of assessment;

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5. Watershed management activities conducted in partnership with other watershed management groups or other entities or interests other than those participating in the applicant's watershed management group;

6. Monitoring and/or modeling activities designed to support the development, implementation and assessment of TMDLs for waterbodies listed on the most recently approved Water Quality Limited Segments (WQLS) List;

7. Watershed management activities to be conducted for an entire watershed management area or areas; and

8. Development of watershed or subwatershed management strategies.

(d) Each year, the Department shall develop a Project Priority Award List for projects determined to be eligible for funding based on the Project Priority System. The list shall be submitted to the Legislature for consideration and approval in accordance with N.J.A.C. 7:15-9.5.

7:15-9.3 Pre-application procedures

(a) The Department encourages potential grant applicants to consult with the Department and the applicable PAC(s) prior to application submission in order to facilitate preparation and evaluation of the grant application. Inquiries to the Department may relate to procedural or substantive matters and may range from informal telephone advice to pre-arranged meetings.

(b) Watershed management grants shall only be issued to watershed management groups recognized in accordance with the following:

1. A watershed management group is a group recognized by the Department as the entity representing various interests within one or more watersheds or subwatersheds located in a watershed management area and whose purpose is to improve the condition or prevent further degradation of a watershed or watersheds.

2. The activities of a watershed management group may include:

i. Holding public meetings to discuss and exchange information on watershed issues;

ii. Establishing and operating a stakeholder's advisory group or groups or watershed associations dedicated to preserving and protecting a watershed;

iii. Engaging in water quality and quantity monitoring, water quality modeling or assessment of the condition of a watershed;

iv. Developing policy goals to reduce the amount of pollutants discharged into a watershed;

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- v. Developing projects designed to enhance or restore a watershed; or
 - vi. Developing, in consultation with the Department and the PAC established for the WMA, a watershed management strategy, or the reassessment of a watershed to determine whether the policies, goals or the objectives of a WMA plan or a watershed management strategy have been attained. The watershed management strategy addresses one or more watersheds or subwatersheds and is developed by the watershed management group, whereas the WMA plan addresses the watershed management area, which consists of more than one watershed, and is developed by the Department.
3. At a minimum, the following entities and individuals shall be invited to participate in a watershed management group:
- i. The mayor or equivalent government official, or such official's designee, for each municipal government located partially or entirely within the watershed or watersheds represented by the watershed management group;
 - ii. The county board of freeholders, or the freeholders' designee, for each county located partially or entirely within the watershed or watersheds represented by the watershed management group;
 - iii. A representative of water purveyors;
 - iv. A representative of wastewater utilities or authorities;
 - v. A representative of the business community;
 - vi. A representative of the development community;
 - vii. A representative of the agricultural community, if appropriate;
 - viii. A representative of the applicable Soil Conservation District(s);
 - ix. A representative of the academic community;
 - x. A representative of the environmental community;
 - xi. A representative of the general public; and
 - xii. An official of any regional planning agency (including regional planning boards established pursuant to N.J.S.A. 40:55D-77 et seq.) that has been created for all or part of the watershed or watersheds to be represented by the watershed management group, as applicable.

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4. A request for recognition as a watershed management group shall be submitted to the Department with a copy to the applicable PAC(s), and include the following information:

- i. A copy of the mailing list used to establish the watershed management group, including the entities identified in (b)3 above;
- ii. A copy of the letter of invitation to participate in the watershed management group;
- iii. A copy of the responses from those officials or representatives agreeing to participate;
- iv. A copy of the responses from those officials or representatives declining to participate; and
- v. In cases where no response to the letter of invitation was received within 60 days, the group shall send a follow-up request by certified mail, return receipt requested, and submit proof of such follow-up.

5. The Department shall respond in writing within 45 days of the receipt of a complete request for recognition as a watershed management group.

6. To qualify for funding under this chapter, a watershed management group shall make an application to the Department for recognition, identify a government entity, 501(c)3 corporation or other corporate entity that will serve as the fiscal agent for the watershed management group and provide a statement of agreement from that entity to serve as the fiscal agent for the watershed management group. The fiscal agent shall be responsible for all financial interactions with the Department.

7. All meetings of a watershed management group shall be open to the public with prior notification in a newspaper of general circulation that covers area of the group.

(c) Potential grant applicants are encouraged to obtain recognition as a watershed management group at least 60 days prior to the submittal of grant applications.

7:15-9.4 Application procedures for grants for watershed management activities

(a) Any recognized watershed management group may submit an application to the Department for a watershed management grant.

(b) The watershed management group should submit an application pertaining to watershed management activities for which the watershed management group has a high probability of success. Factors for consideration include the extent to which available resources (personnel and fiscal) are sufficient for complete and successful implementation of the activities and achievement of the stated objectives.

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(c) The applicant shall submit the information identified in the notice of availability published annually by the Department, in accordance with N.J.A.C. 7:15-9.2. In order to be considered for a grant, the information shall be submitted by the application deadline specified in the notice of availability.

(d) Grant applications shall provide, at a minimum, the following information, as specified in the notice of availability:

1. Proof that the applicant has been recognized as a watershed management group in accordance with N.J.A.C. 7:15-9.3(b);
2. A description of the watershed or watersheds in which the activity is to be conducted, including a map as appropriate;
3. A scope of work that includes an executive summary, a description of the proposed watershed management activities, environmental objectives and measures (as appropriate), a budget, and a schedule for completion;
4. A description of how the proposed activities correspond to and will achieve the goals and objectives of this chapter and conformance with the priorities defined in the annual Project Priority System or N.J.A.C. 7:15-9.2;
5. A description of any proposed environmental monitoring, including evaluation criteria, environmental indicators, and an approved quality assurance/quality control plan, as applicable;
6. Identification of the source and availability of any additional supplementary funds, in the form of cash, in-kind services or both, to be used with this grant to implement the proposed watershed management activity;
7. Identification of all personnel and consultant(s) who will be performing the activity and a description of their experience and expertise in the proposed watershed management activity; and
8. Evidence that the PAC(s) of the watershed management areas within which the proposal is located were provided an opportunity to comment on the proposal, including a copy of the PAC's response; and
9. Any additional information as specified in the notice of availability.

(e) If a grant is awarded, a grant agreement shall be executed between the Department and the watershed management group. The watershed management group is responsible for all performance reports, expenditure reports, deliverables and all other requirements specified in the executed grant agreement.

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(f) A watershed management group may contract for services for all or part of the grant to another person or entity to perform a watershed management activity(ies) in accordance with Department procedures and forms provided in the grant agreement, subject to the following conditions:

1. The watershed management group shall not enter into any contract with any person debarred, suspended or disqualified from Department contracting pursuant N.J.A.C. 7:1-5 for any services within the scope of work;
2. If the watershed management group distributes a grant to a person who has a NJPDES permit to discharge pollutants into the waters of the State pursuant to N.J.A.C. 7:14A, the distribution shall be conditioned upon the NJPDES permittee providing a match of one dollar for every dollar distributed to the NJPDES permittee. The match may be made either as a monetary payment or as an in-kind contribution; and
3. The use any of the grant monies for the purpose of complying with a NJPDES permit is prohibited.

(g) All grant applications, grant agreements and any supporting documentation are public records.

(h) Unless otherwise specified in the notice of availability, applications for watershed management grants shall be submitted to:

New Jersey Department of Environmental Protection
Watershed Management Grant Program
Division of Watershed Management
P.O. Box 418
Trenton, New Jersey 08625-0418

7:15-9.5 Project priority award process

(a) The Department shall submit the Project Priority Award List of recommended watershed management grant projects developed under N.J.A.C. 7:15-9.2 to the Legislature for consideration and approval.

(b) The Department shall publish a notice in the DEP Bulletin and on the Division of Watershed Management web site (www.state.nj.us/dep/watershedmgt) of those projects recommended to the Legislature for approval in the Project Priority Award List.

(c) For all watershed management grant applications included on the Project Priority Award List and approved by the Legislature, the Department shall transmit to the applicant for execution a grant agreement specifying the terms and conditions of the grant, including the scope of work, the approved budget, and the schedule for completion. The applicant shall execute the grant agreement in the manner specified by the Department and shall return the grant agreement to the Department within 60 days, unless

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the applicant has requested and received from the Department an extension of the 60-day period. If the grant agreement is not returned by the deadline, the Department reserves the right to award the grant monies to the next highest ranked eligible project.

(d) Funds under a watershed management grant shall be released only after a grant agreement has been executed by both the applicant and the Department.

(e) The budget in the grant agreement shall specify the items eligible for funding under this subchapter, which may include, for example:

1. Costs of materials, supplies and reproduction for reports, policy recommendations, draft ordinances, publications, maps, diagrams and other similar documents;
2. Project implementation costs, including costs for travel, materials, tools, and disposal costs for debris;
3. Equipment purchases such as computers and global position satellite units may be eligible for grant funding. However, upon completion of the grant commitments, these purchases are subject to the Department's procedures for the disposition of equipment purchased with State funds;
4. Contractual costs for services necessary to implement the grant;
5. Costs of acquisition of real property, including administrative costs, where such property must be acquired as a site for the construction or implementation of nonstructural stormwater management, nonpoint source pollution controls or best management practices, including but not limited to, real property to be used for buffers or to protect aquifer recharge areas; and
6. The acquisition of land, as a means of avoiding new pollutant inputs or water body degradation, may be made eligible, if included in the notice of availability, but shall have a lower priority for watershed management grants than implementation projects that mitigate current stresses or prevent future stresses to water and water-related resources in ways other than land acquisition.

(f) The following items are not eligible for funding under this subchapter:

1. Building construction or other kinds of real property improvements;
2. Bonus payments, charges for contingency reserves, deficits or overdrafts, costs of discounts not taken and interest expenses;
3. Costs of services, materials or equipment obtained under any other State or Federal grant or loan program;
4. Costs of fund raising and lobbying;

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5. Work performed at the direction of a county or municipal government which has not been awarded in compliance with the Local Public Contracts Law, N.J.S.A. 40A:1-1 et seq.;
6. Costs associated with the compliance with permit conditions or enforcement orders; and
7. Any additional item(s) specified by the Department in the notice of availability and the grant agreement as not eligible for funding.

7:15-9.6 Administration and performance of grants

(a) The Department shall release funds to the grant recipient in accordance with the terms of the grant agreement. Upon execution of the grant agreement, up to 60 percent of the grant award may be released. If the grant agreement is for a multiple-year project, up to 60 percent of the funds budgeted for each year may be released at the beginning of each contract year.

(b) After the initial release of funds, any subsequent release of State funds is conditioned upon the submittal of properly documented expenditure reports and final deliverables.

(c) As the grant recipient, the watershed management group has sole responsibility for the administration and success of the grant project, including any work performed on behalf of the grant recipient for accomplishing grant objectives. Watershed management groups are encouraged to seek the advice and opinion of the Department on problems that may arise; however, such advice shall not shift the responsibility for final decisions from the recipient to the Department. The watershed management group shall be solely responsible for the use of the grant funds awarded pursuant to this subchapter in conformance with applicable State requirements to achieve grant and program objectives and to ensure the most efficient use of public funds.

(d) The grant recipient shall supply performance reports to the Department within the time period specified in the grant agreement.

(e) The grant recipient shall supply expenditure reports to the Department within the time period specified in the grant agreement.

7:15-9.7 Project changes: amendment of grant agreement

(a) The grant recipient shall promptly notify the Department in writing (certified mail, return receipt requested) of any event or proposed change which may require an amendment of the grant agreement, including the following:

1. A significant change in budgeting cost or in scope of work;

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2. A significant change in the scheduled project completion date;
3. A significant changed conditions at the project site;
4. A change in the schedule in the time for performance of the project or any major phase thereof;
5. A change in personnel responsible for grant and subsequent project implementation; and
6. A change in approved technical plans or specifications for the project.

(b) If the Department determines that a formal amendment is necessary, it shall notify the grant recipient and a formal amendment to the grant agreement shall be prepared and executed.

(c) If the Department determines that the project change does not require an amendment of the grant agreement under (a) and (b) above, the Department shall notify the grant recipient in writing.

7:15-9.8 Noncompliance

(a) If the grant recipient does not comply with the terms and conditions of the grant agreement, the Department may:

1. Issue written notice identifying the deficiency (for example, failure to submit timely performance reports) and directing the grant recipient to correct the deficiency;
2. Meet with the grant recipient to review the terms and conditions of the grant agreement and amend the grant as necessary;
3. Demand reimbursement of any advance payment(s) and/or withhold scheduled payments under the grant agreement;
4. Rescind the grant agreement by issuance of a notice of termination of grant award; or
5. Award the grant to another watershed management group to perform the previously approved scope of work.